



September 28, 2009

Mayor
Mark Tettemer

Via US Mail and E-mail Mayor Pro Tem
Peter Herzog

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Council Members
Richard Dixon
Kathryn McCullough
Marcla Rudolph

City Manager
Robert C. Dunek

Subject: Comments on the Sixth Draft of Tentative Order No. R9-2009-0002, NPDES No. CAS0108740, Waste Discharge Requirements for Discharges for Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watershed of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region, dated August 12, 2009

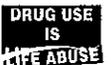
Dear Mr. Robertus:

The City of Lake Forest ("City") submits this letter to the California Regional Water Quality Control Board, San Diego Region ("SDRWQCB") to convey the City's formal written comments on the sixth draft of Tentative Order No. R9-2009-0002/NPDES Permit No. CAS0108740 ("Draft Permit").¹ The City is aware that the County of Orange ("County") is submitting a similar comment letter regarding the Draft Permit. The City would like to express its full support for the County's comments and intends the comments contained in the County's letter to supplement those submitted by the City. Where there are differences in position on individual issues the City intends the comments in this letter to be controlling. Nonetheless, please consider the County's comments to be incorporated in the City's letter by this reference. The City's comments follow.

COMMENTS

On July 1, 2009 the SDRWQCB held a workshop on the Draft Permit to discuss issues of concern. During the workshop, two of the major issues addressed by the SDRWQCB Board were the issues of consistency and cost neutrality. The most recent iteration of the Draft Permit has not resolved either issue. The considerable and profound disparities between the Draft Permit and the North Orange County Municipal Stormwater Permit ("North Orange County Permit") represents a real and immediate cause for concern to the City, as does the significant

¹ The Draft Permit was issued on August 12, 2009, along with a request that comments should focus on changes made since the last draft. However a "redline" version of the Draft Permit was not made available from the SDRWQCB even after one was requested by the Copermittees. In order to ensure that all of its comments are included in the record of proceedings, the City's comments address the entire Draft Permit.



increase in costs required for compliance with the Draft Permit's many new requirements.

CONSISTENCY

As stated in previous correspondence², the City is subject to the jurisdiction of both the San Diego and Santa Ana Regional Water Quality Control Boards. Significant differences in the large municipal stormwater permits issued by either jurisdiction causes the City to incur unnecessary administrative costs. Moreover, disparities between the Santa Ana and San Diego permits are likely to cause confusion among the public, and discourage public acceptance and participation in clean water efforts. During the July 1, 2009, workshop, the SDRWQCB expressed concern about this cost burden, and stated a desire to have the Draft Permit be consistent where possible. Nonetheless, the Draft Permit remains basically unchanged from the draft considered at the July 1 workshop.

Consistency among stormwater permits implicates the larger issue of compliance with the MEP standard. It is not feasible for stormwater permits with significantly different requirements to be mandated by the same, federal standard. Such permits may be consistent with a baseline MEP standard, however major deviations from one another demonstrate that the baseline has been exceeded. While the SDRWQCB may have the authority to exceed the MEP standard under the appropriate circumstances, as described more fully below, this requires compliance with applicable state laws, including but not limited to the California Constitution's prohibition on unfunded state mandates.

This concern was also raised by the SDRWQCB members during the July 1, 2009 workshop on the Draft Permit. At that time, the SDRWQCB directed Regional Board staff to prepare a chart comparing the Draft Permit to the North Orange County permit, and explaining why it is different. As of September 28, 2009, the deadline for submitting written comments on the Draft Permit, that document has not been made public. Moreover, the Draft Permit is not any more consistent with other the other Southern California stormwater permits than it was at the July 1, 2009 Workshop. The following table provides a comparison of key permit requirements, and whether they are included in other regional permits (North Orange County, Ventura County, and San Diego County Permits).

² Copies of the City's previous correspondence regarding the prior iterations of the Draft Permit are attached as Exhibit A.

| | DRAFT SOUTH ORANGE COUNTY PERMIT | NORTH ORANGE COUNTY PERMIT | VENTURA COUNTY PERMIT | SAN DIEGO COUNTY PERMIT |
|---|---|-----------------------------------|------------------------------|--------------------------------|
| NUMERIC EFFLUENT LIMITS | Yes | No | No | No |
| MANDATORY MINIMUM PENALTIES | Yes | No | No | No |
| ACTION LEVELS | Yes | No | Yes | No |
| IRRIGATION OVERFLOW PROHIBITION | Yes | No | No | No |
| EXISTING DEVELOPMENT RETROFIT REQUIREMENTS | Yes | No | No | No |

The Draft Permit and the Fact Sheet do not address why these requirements are different. The distinctions are especially meaningful for the North Orange permit and San Diego County permit. These permits govern areas geographically similar to South Orange County, yet do not impose many of the stringent requirements included in the Draft Permit. The City therefore requests that the SDRWQCB revise the Draft Permit to make it consistent with the North Orange and San Diego County permits on these issues.

COST NEUTRALITY AND COMPLIANCE WITH STATE LAW

The Draft Permit will increase costs for the City. Attached as Exhibit B is a chart that was filed with the County of San Diego's Test Claim challenging the San Diego County Permit as an unfunded state mandate. That chart lists how much each permittee is expected to spend on permit-related programs alleged to be unfunded state mandates. Similar programs have the potential to cost the City millions of dollars. For instance, in San Diego County, development of a Hydromodification Management Plan cost the Permittees \$1.5 million over two years. County-wide, costs associated with each of the challenged programs were estimated at over \$66 million in *new* unfunded program costs. Similar costs are likely in South Orange County, and in fact could be higher as a result of the large number of new programs in the Draft Permit that were not included in the San Diego County permit.

The SDRWQCB may have the discretion to impose some of the programs in the Draft Permit. However, imposing requirements more stringent than that required by the Clean Water Act and its implementing regulations triggers applicable state law requirements. (*See City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613.) For waste discharge requirements that exceed the requirements of federal law, California law requires consideration of the following:

- (a) Past, present, and probable future beneficial uses of water.
- (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.
- (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.
- (d) Economic considerations.
- (e) The need for developing housing in the region.
- (f) The need to develop and use recycled water.

(Cal. Water Code § 13241.)

Of the above listed factors, the economic considerations can be the most difficult to navigate. In *City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, the California Supreme Court held that where an NPDES Permit exceeds the requirements of federal law, the Regional Boards are required to consider the “economic” impacts on dischargers. The Supreme Court defined the economic impact as the “discharger’s cost of compliance.” (*Id.* at 618, 625.) To date, the SDRWQCB has maintained that the entire Draft Permit is federally mandated, and thus consideration of the factors listed in Water Code section 13241, including the economic impacts to the Permittees, is not required.

As a result, the SDRWQCB has failed to fully consider the economic costs associated with the Draft Permit. The Fact Sheet includes a cursory discussion of costs associated with Large MS4 permits in general, but it does not analyze the cost of compliance for dischargers under the Draft Permit. As stated above, compliance with the Draft Permit’s new requirements will run into the millions of dollars. Before the SDRWQCB imposes this obligation on the City, it needs to consider the direct economic costs placed on the City and the other permittees. The purpose of Water Code section 13241 is to ensure that the public has an opportunity to have an honest, open discussion about the ramifications, costs, and benefits of those permit requirements that exceed federal law. Sidestepping these considerations not only violates Section 13241, but more importantly denies the public this opportunity.

Lastly, pursuant to Article XIII B, Section 6 of the California Constitution, any NPDES requirements that are not explicitly required by federal law must be funded by the state. (*County*

of Los Angeles v. Commission on State Mandates (2007) 150 Cal.App.4th 898, 915-916.) Where, as here, a federal program provides discretion to the State agency to impose a local program on a municipality, such as a TMDL, the municipality is entitled to reimbursement from the state. (See *Hayes v. Commission on State Mandates* (1992) 11 Cal. App.4th 1564, 1570.) Numerous programs in the Draft Permit exceed the requirements of federal law and thus represent state mandates. Pursuant to Article XIII B, Section 6 of the California Constitution, the City is entitled to reimbursement for the cost of implementing these programs.

NUMERIC EFFLUENT LIMITS

The Draft Permit's Numeric Effluent Limit ("NEL") requirements are fundamentally flawed and should be removed. The numbers assigned to each NEL do not reflect existing conditions in the South Orange County watersheds, nor do they reflect the limits of current technology to locate, analyze, and treat discharges that are causing NEL exceedances. To further this point, a County assessment indicates that the NELs are not even achievable at reference sites unaffected by urban influences. Moreover, the rationale relied upon for imposing the NELs is based on a flawed interpretation of the Clean Water Act. The Draft Permit's findings related to the need to require NELs are therefore factually untrue, and fail to bridge the analytical gap between the Draft Permit's requirements and conditions in the South Orange County region.

The Clean Water Act requires MS4 permits to effectively prohibit non-stormwater discharges *into* the MS4, and holds all discharges *from* the MS4 are subject to the maximum extent practicable (MEP) standard. (33 USC § 1342(p)(3)(B).) Clean Water Act section 402(p)(B) states:

Municipal discharge. Permits for discharges from municipal storm sewers—

- (i) may be issued on a system- or jurisdiction-wide basis;
- (ii) shall include a requirement to effectively prohibit non-stormwater discharges *into* the storm sewers; and
- (iii) shall require controls *to reduce the discharge of pollutants to the maximum extent practicable*, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(33 USC § 1342(p)(3)(B) [emphasis added].)

Thus the Clean Water Act does not impose a separate standard on the discharge of non-stormwater from the MS4. The discharge of any pollutant from the MS4 is subject to the MEP standard. The Draft Permit ignores this plain language of the Clean Water Act. It differentiates between discharges of stormwater and non-stormwater *from* the MS4, and attempts to justify imposition of NELs on the grounds that the Clean Water Act imposes different compliance

standards on discharges of each. As demonstrated by the plain language of the act, the Clean Water Act does not distinguish between stormwater and non-stormwater when regulating discharges *from* an MS4. (33 USC § 1342(p)(3)(B)(iii).) The MEP standard expressly applies to discharges of pollutants from the MS4.

Application of the MEP standard to discharges from the MS4 is important in the instant case because it speaks to the appropriateness of including NELs in the Draft Permit. Both the State Water Resources Control Board (SWRCB), and US EPA have stated on numerous occasions that an iterative, BMP-based process should be employed to implement MS4 permits. Indeed, the SWRCB explicitly recognized this in Order WQ 2001-15, when it directed the SDRWQCB to revise the 2001 San Diego County Permit to clarify that the MEP standard applies to discharges *from* the MS4.

The permit must be clarified so that the reference to the iterative process for achieving compliance applies not only to the receiving water limitation, but also to the discharge prohibitions that require compliance with water quality standards. The permit should also be revised so that it requires that MEP be achieved for discharges "from" the municipal sewer system.

(SWRCB Order WQ 2001-15, pages 9-10, 17.)

If the Draft Permit is going to require compliance with NELs in an MS4 permit, the SDRWQCB needs to directly address why those authorities mandating an iterative, BMP based approach to municipal stormwater are not applicable. Sidestepping the issue by claiming that the approach is mandated by federal law denies the public an opportunity to have an honest, open discussion about the ramifications, costs, and benefits of imposing NELs on the Permittees.

In addition to the flawed rationale, the actual numeric limits established for the NELs are overly conservative, and in some cases essentially guarantee that the Permittees will violate the Draft Permit's NEL requirements. For instance, for discharges of certain criteria pollutants, "inland surface waters, enclosed bays, and estuaries have conservatively been allotted a mixing zone and dilution credit of zero. As such, any discharge of these priority pollutants is likely to impact the receiving water, regardless of the quantity or rate of discharge." (Fact Sheet, p 112.) As a result, the NEL for these discharge points has been set at the water quality objective for the receiving water. (Fact Sheet, p 113.) There is no basis for imposing this discharge standard on the City and the other Permittees. The SDRWQCB's action in imposing such a standard is arbitrary and not reflective of current technological limits.

NATURAL SOURCE EXCLUSION AND REMOVAL OF THE TERM "URBAN"

The Draft Permit needs to be revised to include a clear, meaningful exclusion for discharges caused by natural sources or third parties over which the City has little or no control. In its present form, the Draft Permit does not provide a safe harbor for discharge violations caused by natural sources or third party entities. This is best demonstrated by the Draft Permit's NEL requirements. The Draft Permit will impose the following NEL requirements on the City:

Compliance with numeric limitations does not excuse compliance with the non-stormwater discharge prohibition in Section B.1. Compliance with NELs provides an assessment of the effectiveness of the prohibition of non-stormwater discharges and of the appropriateness of exempted non-stormwater discharges. Compliance with Section C of this Order requires that an exceedance of an NEL must result in one of the following outcomes:

- a. Copermittees investigate the source of the exceedance and determine that it is natural (non-anthropogenically influenced) in origin and conveyance. The findings are to be conveyed to the Regional Board for review and acceptance.
- b. Copermittees investigate the source of the exceedance and determine that the source is an illicit discharge or connection. The Copermittees are to eliminate the discharge to their MS4 and report the findings, including any enforcement action(s) taken, to the Regional Board. Those seeking to continue such a discharge must become subject to a separate NPDES permit.
- c. Copermittees investigate the source of the exceedance and determine that the source is an exempted non-stormwater discharge. The Copermittees shall investigate the appropriateness of the discharge continuing to be exempt and report the findings to the Regional Board.

(Draft Permit § C.1.)

The Draft Permit's NEL requirements do not provide an exemption for exceedances caused by natural sources or discharges from third parties beyond the City's jurisdiction. As a result, pursuant to Water Code section 13385, the City could still be held liable for NEL violations even if it complied with all of the listed remedial measures, and even if the violation was caused by a natural source or a source beyond the City's authority to control.

As drafted, the Draft Permit does not limit the impact Section 13385's mandatory minimum penalty requirements. In fact, since the term "Urban" has been removed from the text the Draft Permit, the Draft Permit appears to attempt to hold the City directly responsible for discharges from natural sources, agricultural sources, and other third party entities over which the City has little to no control. Draft Permit Finding D.3. is emblematic of this problem:

As operators of the MS4s, the Copermittees cannot passively receive and discharge pollutants from third parties. By providing free and open access to an MS4 that conveys discharges to waters of the U.S., the operator essentially accepts responsibility for discharges into the MS4 that it does not prohibit or control.

The City has no authority to refuse to accept discharges from other jurisdictions or entities.

California law applies a “rule of reason” to flood control issues that requires cities to accept surface water flows from neighboring property owners. (*Locklin v. City of Lafayette* (1994) 7 Cal.4th 327, 349.) Thus the City cannot refuse to accept drainage from adjacent jurisdictions. The City likewise lacks authority over the conduct of state and local agencies within its jurisdiction. These entities are exempt from many conditions in the Draft Permit. (See Cal. Gov. Code § 53091; see also *Hall v. Taft* (1956) 47 Cal.2d 177 [holding that when the State engages in sovereign activities it is not subject to local regulations unless the California Constitution says it is, or the legislature has consented to it].)

The Draft Permit’s attempt to hold the City responsible for such discharges is especially frustrating given that many of the entities implicated by this requirement are required to obtain their own NPDES permits, and thus should be regulated directly by the SDRWQCB. The SDRWQCB’s failure to regulate discharges from these entities should not be imputed to the City. The SDRWQCB’s attempt to regulate such entities through the Draft Permit is therefore arbitrary, capricious, and without justification.

ACTION LEVELS

The Draft Permit’s Stormwater Action Levels (“SALs”) are unnecessary, exceed the requirements of federal law, and should be removed. The Draft Permit’s SAL provisions represent a major increase in monitoring and reporting requirements for the City. Compliance with the SAL requirements will significantly increase the City’s monitoring costs without a defined benefit to water quality. The Clean Water Act and its implementing regulations do not require the SDRWQCB to impose SALs in large MS4 permits, and the SDRWQCB has not demonstrated that SALs are necessary at this time. For that reason, the City requests that the SDRWQCB remove the SALs from the Draft Permit.

IRRIGATION PROHIBITION

The Draft Permit has eliminated irrigation water as an exempt discharge. The federal stormwater regulations include a list of categories of “exempt” non-stormwater discharges or flows. (40 CFR 122.26(d)(2)(iv)(B)(1).) The City must address these discharges or flows when they have been identified by the City as sources of pollutants to waters of the U.S. (*Id.*) Where individual sources of discharge are identified they are to be addressed on an individual basis.

Irrigation runoff may act as a conveyance of pollutants in some instances, however, it is not a conveyance of pollutants in all cases. Additionally, many of the pollutants that may be conveyed by irrigation overflows are naturally occurring, are regulated by the State under different permits or programs, or are diffuse and uncontrollable by the Permittees. Enforcing discharges of potable irrigation water from residential homes will therefore be very difficult. Residents without a significant water quality background are unlikely to agree that potable irrigation water is a pollutant. This will discourage public acceptance and participation in the water quality program, a program whose foundation is outreach and public education.

It is also important to recognize that over irrigation is being addressed as a water conservation

issue. The City, the other Permittees, and water districts throughout the region are working toward limiting excessive irrigation (and irrigation runoff) through numerous water conservation programs and ordinances. Reduction of irrigation runoff will therefore be achieved through other means, and does not need to be regulated in the Draft Permit. Regulation as a water conservation issue has the added benefit of public acceptance and participation in conservation programs. This will allow irrigation overflows to be regulated without undermining public support for the City's water quality program. The City therefore requests that the exemption for landscape irrigation be restored.

LOW IMPACT DEVELOPMENT

The City appreciates the SDRWQCB's efforts to revise the Draft Permit's Low Impact Development requirements to make them more similar to those in the North Orange County Permit. However, the City objects to the mitigation and fee requirements that the Draft Permit will impose on projects that cannot retain and treat stormwater on site. The Draft Permit has a stated preference for LID BMPs that treat stormwater on site. It is possible to require these development techniques where feasible, however such BMPs will not be feasible for all projects. There is no rationale basis for requiring these projects to pay a penalty when they can deploy other traditional BMPs that will treat stormwater to levels that are equivalent or better than the LID and retention requirements currently espoused by the Draft Permit. For that reason, the City requests that the Draft Permit be revised to remove this penalty.

RETROFIT REQUIREMENTS

Section F.3.d of the Draft Permit will require the City to develop a plan to retrofit existing development within its jurisdiction. The City has land use authority to impose requirements on new development as a condition of development, but lacks comparable authority to require property owners to retrofit existing development. The Draft Permit ignores this lack of authority and includes requirements to identify, inventory and prioritize existing developments that are potential sources of pollutants. (Draft Permit, section F.3.d(1)-(6).

The Draft Permit will require the City to identify existing development candidates, evaluate and rank the candidate sites to prioritize them for retrofitting, cooperate with landowners of priority sites and encourage them to retrofit their properties, and track and inspect all sites that do complete retrofitting. This will require the City to invest a significant amount of time and resources developing and implementing this program. The City's lack of authority to impose retrofit requirements on existing development means there will be no corresponding benefit to water quality. For that reason, the Draft Permit's retrofit requirements should be removed.

WORK PLAN

Section J.4 of the Draft Permit will require the City to develop a Work Plan to address high priority water quality programs in an iterative manner. This requirement is duplicative, of other existing programs and is wholly unnecessary. At least four other planning level documents cover these issues. The City uses the Drainage Area Management Plan as the principal policy

Mr. John Robertus
September 28, 2009
Page 10 of 10
Tentative Order No. R9-2009-0002

and guidance document; each jurisdiction also has a related Local Implementation Plan; the South Orange County area uses an Integrated Regional Water Management Plan; the watersheds are assessed and managed with a Watershed Action Plan; and the Aliso Creek Watershed has its own Watershed Runoff Management Plan. There is no reason to add yet another bureaucratic layer to the Draft Permit. This requirement will only increase costs without providing a corresponding benefit to water quality.

CONCLUSION

We appreciate your attention to our comments and look forward to receiving your response. The City is committed to the goal of water quality improvement and wants to work with the SDRWQCB in developing the most prudent and cost effective permit possible. If you should have any questions, please contact Devin Slaven, Water Quality Specialist, at (949) 461-3436.

Sincerely,
CITY OF LAKE FOREST



Robert L. Woodings, P.E.
Director of Public Works/City Engineer

Exhibits:

- A) City's previous comment letters for previous iterations of the Draft Permit
- B) County of San Diego test claim summary of costs

cc: Robert C. Dunek, City Manager
Theodore G. Simon, P.E., Engineering Services Manager
Devin E. Slaven, REA, Water Quality Specialist
Chris Crompton, County of Orange, RDMD

EXHIBIT A



April 4, 2007

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Via Fax (858) 571-6972

Mayor
Richard T. Dixon

Mayor Pro Tem
Mark Tettemer

Council Members
Peter Herzog
Kathryn McCullough
Marcia Rudolph

City Manager
Robert C. Dunek

Subject: Comments on Tentative Order No. R9-2007-0002, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District Within the San Diego Region

Dear Mr. Robertus:

The City of Lake Forest (City) respectfully submits this letter to the California Regional Water Quality Control Board, San Diego Region (Regional Board) to convey the City's formal written comments on Tentative Order No. R9-2007-0002/NPDES Permit No. CAS0108740 (Permit). Once adopted, the Permit will govern discharges of storm water from all Large Municipal Separate Storm Sewer Systems (MS4s) in Southern Orange County. As a regulated Large MS4 operator, the City is very concerned with a number of the Permit's proposed provisions.

As an initial matter, the City would like to address the projected timeline for the Permit's renewal. Regional Board staff have proposed closing the public comment period immediately following the April 11, 2007 Regional Board workshop. In order to facilitate greater public participation, the City hereby requests that the Regional Board keep the comment period open beyond this date. This will provide the Regional Board with the opportunity to review all of the submitted comments, and will allow all stakeholders to review any changes to the Permit that the Regional Board chooses to make.

In developing the following comments, the City worked closely with the County of Orange (County) as well as the other Copermitees to identify common concerns among the Copermitees. The City is aware that the County, as the Principle Permittee, has submitted a comment letter to the Regional Board regarding the Permit. The City would like to express its full support for the County's comments and intends the comments contained in this letter to supplement those submitted by the County and the other Copermitees. Accordingly, please consider the County's comments to be incorporated in the City's letter by this reference.



As with the County's letter, the purpose of this letter is to continue the open dialogue between the Regional Board and the Copermittees. It is the City's belief that such a dialogue will help the Regional Board develop a permit that efficiently promotes the mutually held goal of water quality enhancement. Representatives of the City have participated, and will continue to participate in the Permit renewal process. City representatives will attend the workshop scheduled for April 11, 2007, and will pay close attention to any changes to the Permit that the Regional Board chooses to make.

Additionally, while the City shares the Regional Board's goal of water quality enhancement, the City has certain concerns about the way in which the Permit proposes to reach that goal. These concerns include the Permit's overly specific and prescriptive nature, the abbreviated timelines for compliance, and the manner in which it holds the Copermittees responsible for storm water discharges that are beyond their ability to control. Each of these concerns is set forth more fully below.

GENERAL COMMENTS REGARDING THE PERMIT

The Permit is Unnecessarily Prescriptive. Past permits have provided the Copermittees with discretion to decide which storm water pollution solutions to implement, and when to implement them. This Permit contains a number of very specific requirements that essentially remove the Copermittees' ability to decide which solutions work best. This newly prescriptive nature represents a significant departure from the previous permit, as well as from the intent of the Clean Water Act and its associated regulations. The plain language of the Clean Water Act clearly indicates that Congress envisioned individualized regulation of storm water that would provide permittees with the discretion to implement local solutions on a local level.

Despite the intent to provide MS4 operators with maximum flexibility, this Permit has increased the number of mandatory provisions and intergovernmental relationships in a manner that the Copermittees feel is counter-productive. Permit Section D.1.d.(9) is one example. That section governs site design and treatment control BMPs. It provides very specific criteria that each Copermittee must develop and require for "Priority Development Projects" and includes very detailed mandates that unnecessarily hinder the Copermittees' ability to decide which Best Management Practices ("BMPs") will work best. By removing the Copermittees' discretion, the Permit limits the ability of the Copermittees to develop and implement any new storm water quality solutions that are not specifically required in the Permit.

A second example is the requirement that the Copermittees regulate storm water discharges on a watershed basis. This requirement adds an unnecessary layer of complexity to the storm water program. Where Copermittees have multiple watersheds within their jurisdictions, watershed based regulation forces the Copermittees to duplicate their efforts in an inefficient manner. This is because many storm water quality problems transcend watershed boundaries. Rather than allowing the Copermittees to implement one

solution to address such problems, the Permit adds an unnecessary layer of bureaucracy to the process by requiring watershed based regulation.

The Orange County Copermittees have invested a significant amount of time, energy, and financial resources into their respective storm water programs. They have worked collaboratively to develop organizational and management structures that work well for them. The program has strong momentum that the overly prescriptive nature of the Permit risks losing to the detriment of clean water throughout the region.

The Permit Fails to Cite Applicable Authority or otherwise Support the Exceedance of Federal Requirements. The Permit fails to properly identify which requirements are federally mandated, and which are required by state law. The federal regulations located at 40 C.F.R. § 122.26 establish the minimum requirements for a Large MS4 permit. The Permit greatly exceeds those minimum requirements. Despite the fact that the Regional Board is required to provide the legal and factual basis for each permit provision, the Regional Board has either provided no legal basis for these exceedances, or erroneously pointed to federal sources of authority.

The Regional Board needs to demonstrate why it is necessary to exceed the federal requirements. Without appropriate findings to support the need to go beyond the federal regulations, the Permit is suspect. Additionally, such documentation is necessary because those portions of the Permit that exceed the federally required minimum represent state mandates within the meaning of Article XIII B § 6 of the California Constitution. In order to allow the Copermittees to seek reimbursement from the State so that they can adequately fund their storm water programs, the Regional Board needs to provide a differentiation of authority.

The Permit Improperly Requires the Copermittees to Regulate Phase II and Other Regional Board Regulated Entities. The Permit holds the Copermittees responsible for inputs into their respective MS4s from what the EPA has classified as Phase II storm water dischargers. The Copermittees have little to no authority over the conduct of Phase II entities within their jurisdictions. This in turn significantly limits the ability of the Copermittees to regulate the quality of the storm water that enters their MS4. The EPA and the State Water Resources Control Board have issued Phase II permit guidelines. The Regional Board should enforce these guidelines rather than forcing the Copermittees to do so. The Permit should reflect this and not hold the Copermittees responsible for enforcing storm water regulations by proxy where they have a limited ability to do so.

Likewise, Permit Section D.2.c. requires the Copermittees to both review a project developer's storm water management plan and verify that the developer has obtained coverage under the California statewide General Construction Permit. It appears that this Section will require the Copermittees to do the Regional Board's inspection work for it. This is despite the fact that the State and Regional Boards retain the funds that the General Construction permittees pay for coverage.

To address these concerns, the Permit should be modified to absolve the Copermittees of responsibility for enforcing storm water regulations against Phase II and other Regional and State Board regulated entities.

SPECIFIC PERMIT PROVISIONS OF CONCERN

Finding C.6. – 303(d) Listed Waters. Finding C.6. improperly states that Aliso Creek has been placed on the 303(d) list for Benzo[b]flouranthene, Dieldrin, and Sediment Toxicity. Aliso Creek is on the 303(d) list for indicator bacteria, phosphorus, and toxicity. Aliso Creek has not been listed for Benzo[b]flouranthene, Dieldrin, and Sediment Toxicity. These pollutants are incorrectly identified and need to be deleted from the finding.

Permit Section D. – Jurisdictional Urban Runoff Management Plan (JURMP). Permit Section D. globally requires implementation of all project development elements of the Permit within one year of its adoption. With respect to the new BMP requirements, as well as the requirement that the Copermittees update their SUSMP, and WQMP, the one year threshold is too soon. These requirements, including possible changes to the Municipal Code, may take substantial time to review and modify through City Council action. In order to realistically develop and implement all of the requirements contained in this section of the Permit, the Copermittees need more time. Accordingly, Permit section D. should be revised to provide the Copermittees with 24 months to develop and implement the program requirements.

Section D.1.f. – BMP Tracking and Maintenance. This Section requires Copermittees to maintain a watershed based database to track and inventory approved treatment control BMPs. It additionally requires Copermittees to verify, on an annual basis, that the BMPs are being maintained and operated effectively. Compliance with this section will require a significant commitment from Copermittee staff, and may require the addition of staff. The value of the outlay of funds that compliance with this section will require is questionable in comparison to the overall benefit to storm water quality. This section should be removed, or the Permit should be revised to allow for inspection and verification on an as needed basis.

Section D.1.h – Requirements for Hydromodification and Downstream Erosion. This section requires hydromodification site design measures to be implemented on all Priority Development Projects. It should be noted that some development/redevelopment projects (including infill projects) may actually discharge into engineered channels already designed to handle the flows from the development area. The Permit fails to adequately account for such situations. It does allow for conditional waivers where a downstream channel has been hardened all the way to its outfall. Even in those cases, however, the Permit still requires mitigation measures for what is essentially a non-existent impact.

Additionally, where a channel is only hardened in certain areas, and not for its entire length, the Permit provides no such waiver. The Permit still requires hydromodification

site design measures despite the fact that implementation of such measures will have little to no impact on downstream hydrologic conditions. The Permit should therefore be revised to provide a waiver with no mitigation measures in situations where a project discharges into engineered channels already designed to handle the flows from the development area.

Section D.3.a.(4) – BMP Implementation for Flood Control Structures. This Section requires each Copermittee to implement procedures to assure that flood management projects assess water quality impacts. It additionally requires Copermittees to evaluate their existing flood control devices for impacts on storm water quality. This Section thereby places the responsibility for ensuring that flood control devices comply with the terms of the Permit with the Copermittees. This is despite the fact that the Orange County Flood Control District owns, operates and maintains virtually all of the flood control devices in the Permit area. The Permit should not hold the Copermittees responsible for storm water requirements that are beyond their authority to regulate.

Section D.3.a.(5) – BMP Implementation for Sweeping of Municipal Areas. This Section requires Copermittees to design and implement a street sweeping program based on criteria which includes optimizing the pickup of “toxic automotive byproducts” based on traffic counts. Although the Permit does not specify what pollutants it is trying to capture, one can only assume that this provision is aimed at commonly utilized automotive products such as oil, gasoline, transmission fluid, brake fluid, brake dust and radiator fluids. Because the term is not defined, however, it could be broad enough to include air deposited byproducts of combustion.

Street sweeping, and street sweepers in general, were not designed to be the primary means of collecting these by-products. It is therefore unlikely that street sweeping will be effective at collecting many of them, including any liquids that have soaked into the pavement. Additionally, whether such by-products are deposited on a given street is not necessarily a function of the traffic volume on that street. There does not appear to be a direct correlation between traffic counts and the effectiveness or need for street sweeping. There are other pollutants such as litter, debris, and grass clippings etc. that could be detrimental to storm water quality that are de-emphasized by the Permit’s focus on traffic counts. This section should therefore be revised to both specify the types of pollutants the Copermittees should be seeking to reduce with their street sweeping programs, and to provide the Copermittees with the discretion to utilize street sweeping in a manner that maximizes its effectiveness.

Section D.3.a.(7) - Infiltration from Sanitary Sewer to MS4/Provide Preventive Maintenance of Both. This section requires implementation of controls to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s. This requirement fails to recognize that the City, as well as most of south Orange County, is serviced by numerous water districts that own, operate, and maintain their own sanitary sewer infrastructure. Therefore, while these requirements may be appropriate for public agencies that own, operate, and maintain sanitary sewer infrastructure, it is infeasible for the City to operate

and maintain another agency's infrastructure. This Permit section should therefore be revised to apply only to those Copermittees that own and operate their own sanitary sewer systems.

Section D.3.b.(3) – BMP Implementation for Mobile Businesses. The Permit requires the Copermittees to develop and implement a program to reduce the discharge of pollutants from various types of mobile businesses. This section requires Copermittees to develop a listing of mobile businesses, and requires the Copermittees to develop and implement a number of measures to limit the discharge of pollutants from them. As a practical matter, these requirements will be very difficult to enforce for the following reasons:

1. What constitutes a mobile business is not well defined;
2. Mobile businesses operate in multiple jurisdictions and cannot be tracked as to time and place;
3. Mobile businesses may operate on private property out of the City's view; and
4. Additional staff time will be required to roam the City looking for mobile businesses.

The Fact Sheet that the Regional Board has issued in support of the Permit states that the Permit has targeted mobile businesses for special attention because the Copermittees reported that discharges from such businesses have been difficult to control with existing programs. Rather than finding a solution for this problem, the Permit directs Copermittees to implement a number of non-descript solutions that will not necessarily make regulation of mobile businesses any easier. The Regional Board should therefore revise this section of the Permit to provide the Copermittees with the discretion to focus on mobile sources when they feel it is necessary, or if they identify mobile businesses as a significant source of storm water pollution within their jurisdiction.

Section D.3.b.(4)(c) – Inspection of Food Service Facilities. This Section requires Copermittees to inspect each food service facility within their jurisdictions annually, and to address, among other things, the maintenance of greasy roof vents during those inspections. Requiring inspectors to access food service facility roofs will require clearance from the property owner, as well as more time to complete inspections. It will also place inspectors at risk of injury by forcing them to climb onto roof tops that may not be secure or appropriate for access.

Additionally, the Copermittees currently contract with the Orange County Health Care Agency (OCHCA) to inspect food service facilities for storm water compliance. The addition of inspections of roof vents will severely limit, if not eliminate, the Copermittee's ability to utilize OCHCA services. It will therefore add significant new costs to each Copermittee's storm water program. Furthermore, grease discharges from

food service facilities are already regulated by the Fats, Oils and Grease ("FOG") programs implemented and enforced by sewerage districts/agencies. The FOG programs include requirements for proper handling of these potential pollutants. It is therefore unlikely that requiring roof vent inspections will add any additional benefit to overall storm water quality.

Lastly, neither the Fact Sheet, nor the Permit's Findings provide any justification for the addition of this requirement. Such a time consuming and dangerous method of storm water pollution control should not be instituted where there is no sound evidence that it will yield an improvement in storm water quality.

Section E.1.a. – Lead Permittee Identification. This Section requires Copermittees to designate the Lead Permittee for each watershed, and designates a Lead Permittee in the event that the Copermittees fail to designate one. It is unclear how much time the Copermittees will have to designate the Lead Permittee, and at what point the Regional Board will designate one for them. The Permit should provide the Copermittees with sufficient discretion to decide whether they need a Lead Permittee for each watershed. This provision should therefore be removed from the Permit.

Section F. – Fiscal Analysis. This section of the Permit requires the Copermittees to conduct an annual fiscal analysis of the capital, operation, and maintenance expenditures necessary to implement the Permit's requirements. This section additionally requires each analysis to "include a qualitative or quantitative description of fiscal benefits realized from implementation of the storm water protection program." A review of the Fact Sheet indicates that the Permit is requiring the Copermittees to conduct an economic benefits analysis of their respective storm water programs.

This requirement is unnecessarily duplicative. As described in the Report of Waste Discharge, the Copermittees have already committed to develop a fiscal reporting strategy to better define the expenditure and budget line items included in the fiscal report. Furthermore, the Regional Board is already required to take the economic benefits and burdens of their actions into account when issuing storm water permits. (*See City of Burbank v. State Water Resources Control Board* (2005) 35 Cal.4th 613; and California Water Code § 13263.) Requiring the Copermittees to duplicate these requirements is a waste of resources that could be better spent on implementing other Permit provisions. Accordingly, this section should be modified to encourage rather than require the Copermittees to conduct such an analysis.

This section of the Permit additionally requires each Copermittee to submit a business plan that identifies a long term funding strategy for program evolution and funding decisions. The Copermittees do not always have information on the future sources of funding as it is not often readily available. This makes production of such a document difficult. The Regional Board does not need to know the funding sources for each Copermittee's storm water program. Requiring such a report is overreaching in a manner that will unnecessarily cost the Copermittees additional time and resources. This section

Mr. John H. Robertus
April 4, 2007
Page 8 of 8
Tentative Order No. R9-2007-0002

of the Permit should therefore be modified to encourage rather than require the Copermittees to develop a business plan.

CONCLUSION

We appreciate your attention to our comments. As stated at the beginning of this letter, the City submits these comments as part of the on-going, open dialogue between the Copermittees and the Regional Board to help develop a workable Permit for this region. The City is committed to the goal of water quality enhancement, and wants to work with the Regional Board in developing the most cost-effective way to reach that goal. We look forward to receiving your response to the above comments and concerns. If you should have any questions, please contact Devin Slaven, Water Quality Specialist, at (949) 462-3436.

Sincerely,
CITY OF LAKE FOREST



Robert L. Woodings, P.E.
Director of Public Works/City Engineer

cc: Jeremy Haas, Environmental Scientist, SDRWQCB
Robert C. Dunek, City Manager
Chris Crompton, County of Orange, RDMD
Theodore G. Simon, P.E., Engineering Services Manager
Devin E. Slaven, REA, Water Quality Specialist

CAS 002 85

CITY OF LAKE FOREST



May 14, 2009

Via US Mail and E-mail

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Mayor
Mark Tetterer
Mayor Pro Tem
Peter Herzog
Council Members
Richard Dixon
Kathryn McCullough
Marcia Rudolph
City Manager
Robert C. Dunek

Subject: Comments on Tentative Order No. R9-2009-0002, NPDES No. CAS0108740, Waste Discharge Requirements for Discharges for Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watershed of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood Control District within the San Diego Region

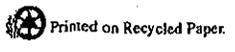
Dear Mr. Robertus:

The City of Lake Forest ("City") submits this letter to the California Regional Water Quality Control Board, San Diego Region ("SDRWQCB") to convey the City's formal written comments for Tentative Order No. R9-2009-0002/NPDES Permit No. CAS0108740 ("Draft Permit"). The City is additionally aware that the County of Orange ("County") is submitting a similar comment letter regarding specific conditions contained in the Draft Permit. The City would like to express its full support for the County's comments and intends the comments contained in this letter to supplement those submitted by the County. Accordingly, please consider the County's comments to be incorporated in the City's letter by this reference. The City's comments follow.

GLOBAL COMMENTS

During the last public hearing on the Draft Permit, in February, 2008, the SDRWQCB Board directed Board Staff to revise the permit to achieve greater consistency with Phase I MS4 permits throughout the state, and to provide stakeholders and the regulated community with a meaningful opportunity to assist in the development of the revisions. Unfortunately, the Draft Permit was released without cooperative input from the regulated community prior to its release and, more significantly, is entirely inconsistent with other Large MS4 Permits issued throughout the state.

Indeed, a brief comparison of the Draft Permit with the North Orange County MS4 Permit that is likely to be adopted by the California Regional Water Quality Control Board, Santa Ana Region ("SARWQCB") on May 22, 2009, reveals that there is a significant disparity between the two permits. The North Orange County MS4 Permit is of particular concern because many of the Copermitees, including the City, are subject to



both the North Orange County Permit, and the Draft Permit. Inconsistencies between the two permits create bureaucratic hurdles that cost the City time and valuable resources. Furthermore, the conspicuous disparity between the permits are likely to cause confusion among the public, and discourage public acceptance and participation in clean water efforts.

In addition to the consistency issues, the Draft Permit largely conflicts with guidance from the State Water Resources Control Board ("State Board") and the United States Environmental Protection Agency ("EPA"). This deviation from agency guidance, and industry practice is most stark in the Draft Permit's Numeric Effluent Limits ("NEL") and Municipal Action Level ("MAL") requirements. As described more fully below, these aspects of the Draft Permit exceed the standards for municipal discharges set forth in the Clean Water Act and/or completely ignore State Board studies on whether such provisions can be feasibly implemented in MS4 permits. The City's specific comments on the Draft Permit follow.

SPECIFIC COMMENTS

HOLDING DRY WEATHER FLOWS TO A DIFFERENT COMPLIANCE STANDARD VIOLATES THE CLEAN WATER ACT

The Draft Permit attempts to impose a higher compliance standard for dry weather discharges. Pursuant to this heightened standard, the Draft Permit imposes NELs for dry weather discharges from the MS4. The Draft Permit states that this heightened standard is warranted because the Clean Water Act requires MS4 permits to prohibit discharges of non-stormwater, and dry weather flows constituted non-stormwater.

The Clean Water Act clearly defines the discharge requirements for MS4 permits. Pursuant to the Clean Water Act, NPDES permits may be issued on a system or jurisdiction-wide basis, and must include a requirement to effectively prohibit non-stormwater discharges into the storm sewer, and must require controls to reduce the discharge of pollutants from the storm sewer to the maximum extent practicable. (33 U.S.C. § 1342(p)(3)(B).) The Clean Water Act does not distinguish between wet weather and dry weather discharges, and thus does not support a heightened standard for discharges of non-stormwater from MS4s.

Moreover, the NELs in the Draft Permit directly conflict with the findings of the State Water Resources Control Board's ("State Board") Blue-Ribbon Panel Report on the feasibility of numeric effluent limits in MS4 permits. After an exhaustive investigation into the feasibility of numeric effluent limits and action levels, the Blue Ribbon Panel found "[i]t is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges." (Blue Ribbon Panel Report, pp. 8.) Nonetheless, the Draft Permit includes NELs for dry weather flows. When this inconsistency was brought to the attention of Regional Board staff, it was dismissed on

Mr. John Robertus
May 14, 2009
Page 3 of 10
Tentative Order No. R9-2009-0002

the grounds that the Blue Ribbon Panel report applied only to wet weather flows. As stated above, the Clean Water Act makes no such distinction.

While the SDRWQCB may have the authority to impose restrictions in Waste Discharge Requirements that exceed the requirements of the Clean Water Act, when imposing such restrictions, the SDRWQCB must comply with applicable State laws. (*City of Burbank v. State Water Resources Control Board* (2005) 35 Cal.4th 613; *see also Defenders of Wildlife v. Brown* (9th Cir. 1999) 191 F.3d, 1159, 1166.) These include but are not limited to the California Environmental Quality Act, and Water Code sections 13241 and 13000. The Draft Permit does not comply with these requirements.

Imposing NELs in the Draft permit will result in numerous unintended consequences, including the possibility that the Copermitees will be held liable for mandatory minimum penalties for exceeding the NELs. For that reason, the City requests that the SDRWQCB remove the NEL requirements from the Draft Permit.

~~IMPOSING MUNICIPAL ACTION LEVELS IS UNNECESSARY AND CONTRARY TO EPA AND STATE WATER RESOURCES CONTROL BOARD GUIDANCE~~

The Draft Permit includes MALs. Pursuant to the Draft permit, beginning in the fourth year after adoption of the permit, discharges from the MS4 that exceed the MALs create a presumption that the permittee is not complying with the Maximum Extent Practicable ("MEP") standard. In other words, the permittee would be presumed to be in violation of the permit. The decision to include MALs in the Draft Permit ignores guidance from the State Board and the EPA, as well as the MS4 Permits adopted by other Regional Boards.

The MALs in the Draft Permit directly conflict with the State Board's Blue-Ribbon Panel Report findings. The MALs recommended by the Blue Ribbon Report were to be used as a management tool to indicate when additional Best Management Practices ("BMPs") are necessary, not a point of compliance. In contrast, the MALs in the Draft Permit are tied to MEP compliance and as a result are effectively NELs. As stated above, the Blue Ribbon Panel found that NELs for municipal BMPs and urban discharges are not feasible. By imposing NELs by a different name, the Draft Permit flatly ignores the Blue Ribbon Report's recommendations.

Additionally, the Draft Permit's attempt to tie compliance with the MEP standard to non-compliance with MALs is not supported by the Clean Water Act. The MEP standard is designed to allow the Copermitees flexibility to implement effective and feasible BMPs to address stormwater pollution. This interpretation of the MEP standard is supported by the EPA. (*See* 64 Fed. Reg. 68721, 68754 (Dec. 8, 1999) ["EPA has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. MS4s need the flexibility to optimize reductions in stormwater pollutants on a location-by-location basis"].) It is also endorsed by the State Board. (State Water Board Order WQ 2000-11 at p. 20 ["MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive"].)

Defining MEP compliance with a single MAL standard violates the intent of the Clean Water Act to give the municipal permittees the discretion and flexibility to do use BMPs to prevent and/or treat discharges from their MS4s. This is the approach taken by the other Regional Boards in Southern California when issuing MS4 Permits. Neither the recently adopted Ventura County Large MS4 Permit, nor the North Orange County Large MS4 Permit includes NELs or MALs.¹ The Draft permit should reflect the national and statewide guidelines on MALs. For that reason, the SDRWQCB should either revise the Draft Permit to meet the recommendations from the Blue Ribbon Panel, or remove the MALs from the Draft Permit.

THE DRAFT PERMIT IMPERMISSIBLY ATTEMPTS TO REGULATE AGRICULTURAL SOURCES, NATURAL SOURCES, AND OTHER NON-POINT SOURCE DISCHARGES

The Draft permit has removed the word "urban" from everywhere it formerly modified the word "runoff". This universal change suggests that the Copermittees are responsible not just for urban runoff, but all runoff. Holding the Copermittees to this heightened standard exceeds the jurisdiction and intent of the Clean Water Act.

MS4 Permits are NPDES Permits. Pursuant to the Clean Water Act, NPDES permits regulate point source discharges. By definition, agricultural discharges are not point sources, even when they are discharged from a conveyance that would meet the definition of a point source. By removing the term "urban" from the Draft permit, the Draft Permit would hold the Copermittees liable for agricultural and other non-point source discharges that enter and exit their MS4. Because agricultural discharges are not point sources, they are not subject to regulation with NPDES permits. Attempting to include agricultural discharges in the Draft Permit therefore exceeds the Clean Water Act's jurisdiction.

The history of the Clean Water Act demonstrates that it was intended to regulate urban runoff rather than agricultural sources and other non-point discharges. Indeed, when issuing the MS4 Permit regulations in 1990, EPA stated, "it is the intent of EPA that [stormwater] management plans and other components of the programs focus on the urbanized and developing areas of the county." (55 Fed. Reg. 47989, 48041 (Nov. 16, 1990).) The urban discharge focus is reflected in the San Diego Region Basin Plan which discusses the problem of stormwater runoff in terms of urbanization and cites to EPA Guidance limiting regulation of stormwater to urban sources. (See San Diego Basin Plan, pp. 4-78, 4-79.) There is simply no support for the Draft permit's attempt to expand the scope of regulation by adding additional sources of regulated discharges.

By removing the term "urban" from the Draft Permit, the SDRWQCB has potentially enlarged the scope of regulation to include agricultural discharges, other traditional non-point source discharges, and naturally occurring pollutant discharges. As stated above,

¹ While the North Orange County permit incorporates Total Maximum Daily Loads ("TMDLs") that have specific waste load allocations, these TMDLs are being implemented through an iterative BMP process. Thus there are no direct effluent limits in the permit at this time.

regulation of these discharges is not within the scope of the Clean Water Act.² The City therefore requests that Draft Permit be revised to make clear that it only pertains to "urban" discharges.

EXISTING DEVELOPMENT RETROFIT REQUIREMENTS

Section F.3.d of the Draft Permit requires the Copermittees to develop a plan to retrofit existing development within their jurisdiction. Specifically, each permittee must implement a retrofit program that:

- Solves chronic flooding problems,
- Reduces impacts from hydromodification,
- Incorporates Low Impact Development ("LID") principles,
- Supports stream restoration,
- Systematically reduces downstream channel erosion,
- Reduces the discharges of stormwater pollutants from the MS4 to the MEP, and
- Prevents discharges from the MS4 from causing or contributing to a violation of water quality standards.

These requirements are inconsistent with other recently issued MS4 Permits. More importantly, they are infeasible. While the Copermittees have traditional land use authority to impose requirements on new development as a condition of development, there is no similar authority to require property owners to retrofit existing development. The Draft Permit ignores this lack of authority and goes as far as to require the Copermittees to identify existing developments that are sources of pollutants and then evaluate and rank them to prioritize retrofitting. (Draft Permit, section F.3.d(1)-(2).)

Additionally, because the City has limited authority to impose retrofit requirements on existing development within its jurisdiction, the Draft Permit's retrofit provisions will result in an allocation of resources that is not likely to benefit clean water. For example, the City will be required to dedicate significant resources and time to identify and inventory existing sites and then complete evaluations and prioritization of these sites for retrofits. These intensive activities will divert resources, time, and funding away from other vital permit related programs.

Because the Copermittees have little authority to implement the Draft permit's existing development retrofit requirements, the City requests that they be removed from the Draft Permit.

² To the extent that the Draft Permit attempts to regulate these discharges, it does so under the authority of state law, and must comply with other state law requirements including but not limited to Water Code sections 13241, and 13000.

THE DRAFT PERMIT UNNECESSARILY OUTLAWS IRRIGATION RUNOFF

The Draft Permit has eliminated irrigation water as an exempt discharge. The federal stormwater regulations include a list of categories of "exempt" non-stormwater discharges or flows. (40 CFR 122.26(d)(2)(iv)(B)(1).) The Copermittees' illicit discharge and illegal disposal program must address these discharges or flows when they have been identified by the Copermittees as sources of pollutants to waters of the U.S. (*Id.*) Where individual sources of discharge are identified they need to be addressed on an individual basis. This approach is supported by the EPA. (*See Part 2 Guidance Manual at p. 6-33.*)

This is a sound approach to addressing pollutants in irrigation water. While irrigation runoff may act as a conveyance of pollutants in some instances, whether it is a conveyance of pollutants needs to be evaluated on an case by case basis. This is because the tendency of irrigation water to convey pollutants is dependant on the pollutants and the source of those pollutants. Moreover, many of the pollutants that may be conveyed by irrigation overflows are naturally occurring, are regulated by the State under different permits or programs, or are diffuse and uncontrollable by the Permittees. Potable irrigation water itself is not a pollutant. Therefore, it is inappropriate to regulate irrigation runoff as a pollutant.

Furthermore, enforcing discharges of potable irrigation water from residential homes presents numerous challenges for the City. Residents without a significant water quality background are unlikely to agree that potable irrigation water is a pollutant. This will discourage public acceptance and participation in the water quality program, a program whose foundation is outreach and public education.

Lastly, it is also important to recognize that irrigation runoff is a significant water supply issue. The City, the other Copermittees, and water districts throughout the region are working toward limiting excessive irrigation runoff through numerous water conservation programs and ordinances. Therefore, reduction of irrigation runoff will be achieved through other means, and does not need to be regulated in the Draft Permit. Regulation as a water supply issue has the added benefit of public acceptance and participation in conservation programs. This will allow the benefits of fewer irrigation overflow discharges to occur without undermining public support for the City's water quality program. The City therefore requests that the exemption for landscape irrigation be restored.

THE DRAFT PERMIT'S BMP DATABASE REQUIREMENTS ARE UNNECESSARY

Draft Permit Section D.1.f. requires Copermittees to maintain a watershed based database to track and inventory approved treatment control BMPs. It additionally requires Copermittees to verify, on an annual basis, that the BMPs are being maintained and operated effectively. Compliance with this section will require a significant commitment from Copermittee staff, and may require the addition of staff. The value of the outlay of funds that compliance with this section will require is questionable in comparison to the

overall benefit to stormwater quality. This section should be removed, or the Permit should be revised to allow for inspection and verification on an as needed basis.

THE DRAFT PERMIT'S HYDROMODIFICATION AND LID REQUIREMENTS SHOULD BE CONSISTENT WITH THE NORTH ORANGE COUNTY LARGE MS4 PERMIT

During preparation of the Fourth Draft of the North Orange County Permit, the land development provision of the permit were the subject of a series of stakeholder meetings and subsequent comments by the EPA. These sections of the SARWQCB permit containing the land development provisions were revised and are currently scheduled for consideration of adoption by the SARWQCB on May 22, 2009. The City requests that SDRWQCB staff include the same or very similar land development provision within the SDRWQCB Draft Permit to facilitate consistency and feasible implementation between the two regions within Orange County.

As state above, this issue is very important to the City as it will be required to implement both programs within its jurisdiction. The North Orange County Permit's development provisions are more flexible than those currently included in the Draft Permit. It was nonetheless accepted by the EPA, the Copermittees, the building industry, and interested environmental groups. Those provisions represent mutually agreeable design standards that should be adopted in the Draft Permit.

THE DRAFT PERMIT'S STREET SWEEPING REQUIREMENTS ARE AN UNNECESSARY ALLOCATION OF RESOURCES

Draft Permit Section D.3.a.(5) requires Copermittees to design and implement a street sweeping program based on criteria which includes optimizing the pickup of "toxic automotive byproducts" based on traffic counts. Although the Permit does not specify what pollutants it is trying to capture, one can only assume that this provision is aimed at commonly utilized automotive products such as oil, gasoline, transmission fluid, brake fluid, brake dust and radiator fluids. Because the term is not defined, however, it could be broad enough to include air-deposited byproducts of combustion.

Street sweeping, and street sweepers in general, were not designed to be the primary means of collecting these by-products. It is therefore unlikely that street sweeping will be effective at collecting many of them, including any liquids that have soaked into the pavement. Additionally, whether such by-products are deposited on a given street is not necessarily a function of the traffic volume on that street. There does not appear to be a direct correlation between traffic counts and the effectiveness or need for street sweeping.

There are other pollutants such as litter, debris, and grass clippings etc. that could be detrimental to stormwater quality that are de-emphasized by the Permit's focus on traffic counts. This section should therefore be revised to both specify the types of pollutants the Copermittees should be seeking to reduce with their street sweeping programs, and to provide the Copermittees with the discretion to utilize street sweeping in a manner that maximizes its effectiveness.

THE DRAFT PERMIT'S MOBILE BUSINESS REQUIREMENTS ARE IMPRACTICAL

The North Orange County permit, which the City will also be required to implement, no longer includes a mobile business tracking requirement. Instead, the North Orange Permit requires the County, as the principle permittee to develop a program over the next permit term that could be implemented by all of the Copermittees. This approach is preferable to the language in the Draft Permit because it gives the Copermittees the flexibility to develop a program they mutually agree upon. For that reason, the City requests that the SDRWQCB either remove the mobile business provisions from the Draft Permit, or replace them with language similar to that in the North Orange County permit.

Draft Permit Section D.3.b.(3) requires the Copermittees to develop and implement a program to reduce the discharge of pollutants from various types of mobile businesses. This section requires Copermittees to develop a listing of mobile businesses, and requires the Copermittees to develop and implement a number of measures to limit the discharge of pollutants from them. As a practical matter, these requirements will be very difficult to enforce for the following reasons:

1. What constitutes a mobile business is not well defined;
2. Mobile businesses operate in multiple jurisdictions and cannot be tracked as to time and place;
3. Mobile businesses may operate on private property out of the City's view; and
4. Additional staff time will be required to roam the City looking for mobile businesses.

The Fact Sheet that the SDRWQCB has issued in support of the Permit states that the Permit has targeted mobile businesses for special attention because the Copermittees reported that discharges from such businesses have been difficult to control with existing programs. Rather than finding a solution for this problem, the Permit directs Copermittees to implement a number of non-descript solutions that will not necessarily make regulation of mobile businesses any easier. The SDRWQCB should therefore revise this section of the Permit to provide the Copermittees with the discretion to focus on mobile sources when they feel it is necessary, or if they identify mobile businesses as a significant source of stormwater pollution within their jurisdiction.

THE DRAFT PERMIT'S BUSINESS PLAN REQUIREMENTS ARE UNLIKELY TO BENEFIT WATER QUALITY

Draft Permit Section F. requires the Copermittees to conduct an annual fiscal analysis of the capital, operation, and maintenance expenditures necessary to implement the Permit's requirements. This section additionally requires each analysis to "include a qualitative or quantitative description of fiscal benefits realized from implementation of the stormwater protection program." A review of the Fact Sheet indicates that the Permit is requiring the Copermittees to conduct an economic benefits analysis of their respective stormwater programs.

This requirement is unnecessarily duplicative. As described in the Report of Waste Discharge, the Copermittees have already committed to develop a fiscal reporting strategy to better define the expenditure and budget line items included in the fiscal report. Furthermore, the SDRWQCB is already required to take the economic benefits and burdens of their actions into account when issuing stormwater permits. (*See City of Burbank v. State Water Resources Control Board* (2005) 35 Cal.4th 613; and California Water Code § 13263.) Requiring the Copermittees duplicate these requirements is a waste of resources that could be better spent on implementing other Permit provisions. Accordingly, this section should be modified to encourage rather than require the Copermittees conduct such an analysis.

This section of the Permit additionally requires each Copermittee submit a business plan that identifies a long term funding strategy for program evolution and funding decisions. The Copermittees do not always have information on the future sources of funding as it is not often readily available. This makes production of such a document difficult. The SDRWQCB does not need to know the funding sources for each Copermittee's stormwater program. Requiring such a report is overreaching in a manner that will unnecessarily cost the Copermittees additional time and resources. This section of the Permit should therefore be modified to encourage rather than require the Copermittees develop a business plan.

THE DRAFT PERMIT INCLUDES NUMEROUS REQUIREMENTS THAT EXCEED FEDERAL LAW AND DOES NOT MAKE THE FINDINGS OR INCLUDE THE ANALYSES REQUIRED BY WATER CODE SECTION 13241

The Draft Permit includes numerous requirements that exceed the requirements of federal law. While the SDRWQCB has the authority to include such requirements in the Draft Permit, it must comply with the statutory requirements set forth in the California Porter-Cologne Water Quality Control Act. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal. 4th 613.) This includes making the findings required by Water Code sections 13000, 13241 and 13263. Additionally, as these requirements represent state, rather than federal, mandates, if they are included the final permit, the Copermittees are entitled to reimbursement from the State for the costs associated with implementing them. (California Constitution, Article XIII B, § 6.)

Mr. John Robertus
May 14, 2009
Page 10 of 10
Tentative Order No. R9-2009-0002

CONCLUSION

We appreciate your attention to our comments. The City is committed to the goal of water quality improvement and wants to work with the SDRWQCB in developing the most prudent and cost effective permit possible. We look forward to receiving your response to the above comments and concerns. If you should have any questions, please contact Devin Slaven, Water Quality Specialist, at (949) 461-3436.

Sincerely,
CITY OF LAKE FOREST



Robert L. Woodings, P.E.
Director of Public Works/City Engineer

cc: Robert C. Dunek, City Manager
Theodore G. Simon, P.E., Engineering Services Manager
Devin E. Slaven, REA, Water Quality Specialist
Chris Crompton, County of Orange, RDMD

CITY OF LAKE FOREST



August 22, 2007

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Via US Mail and Fax 858-571-6972

Mayor
Richard T. Dixon

Mayor Pro Tem
Mark Tettemer

Council Members
Peter Herzog
Kathryn McCullough
Marcia Rudolph

City Manager
Robert C. Dunek

Subject: Comments on Revised Tentative Order No. R9-2007-0002, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of Orange County, and the Orange County Flood control District Within the Sand Diego Region

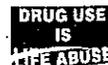
Dear Mr. Robertus:

The City of Lake Forest (City) respectfully submits this letter to the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) to convey the City's formal written comments on Revised Tentative Order No. R9-2007-0002/NPDES Permit No. CAS0108740 (Permit).

As an initial matter, the City would like to commend the SDRWQCB for modifying the Permit in response to comments submitted by the Copermittees. The changes indicate an effort on the part of the SDRWQCB and its staff to work with the Copermittees to develop a mutually beneficial Permit.

The City is aware that the County of Orange (County) is submitting a similar comment letter regarding specific conditions contained in the Permit. The City would like to express its support for the County's comments, and intends the comments contained in this letter to supplement those submitted by the County and the other Copermittees.

Like the County, the City continues to have certain concerns about the way the SDRWQCB has structured the Permit. The City, therefore, submits the following comments to continue the open dialogue between the Copermittees and the SDRWQCB, and to facilitate further collaboration on the development of a Permit that both promotes water quality improvement, and meets the needs of the Copermittees. A description of the City's other concerns is set forth below.



SDRWQCB Needs to Provide a Response to Comments on the Revised Tentative Order.

It is the City's understanding that the SDRWQCB is not planning to provide a response to the Copermittee's comments for the Permit. The City requests that the SDRWQCB provide a response to the comments contained in this letter. The Permit contains new provisions that were not addressed in previous permit iterations or comments; therefore, comments regarding these new provisions necessitate a response from SDRWQCB. Additionally, a number of comments contained in this letter request clarification of Permit provisions. The City cannot receive the written clarification it has requested if the SDRWQCB declines to respond to comments.

The Permit Fails to Cite Applicable Authority or otherwise Support the Exceedence of Federal Requirements.

Many of the Permit's requirements exceed those established by EPA regulations. The SDRWQCB needs to delineate the sources of authority that require SDRWQCB to exceed those requirements. As stated in our previous letter, such documentation is necessary because those portions of the Permit that exceed the federally required minimum represent state mandates within the meaning of Article XIII B § 6 of the California Constitution. Although the SDRWQCB has stated that none of the Permit provisions exceed federal requirements, and therefore do not constitute unfunded state mandates, the City disagrees with this assessment. (*See City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 619-21; and *County of Los Angeles v. Commission on State Mandates*, (2007) 150 Cal. App. 4th 898, 915-18 (stating that whether the Los Angeles County MS4 Permit constitutes an unfunded State mandate is a question for the Commission on State Mandates).)

It is worth noting that the City's request for such a differentiation is in no way a reflection of its willingness to implement the Permit. To the contrary, in order to allow the City to seek reimbursement from the State so that it can adequately fund its storm water program, and thereby fully implement the Permit, the City needs the SDRWQCB to accurately support each Permit requirement with citation to the Federal authority that *requires* the Permit to include the relevant provision. Those portions of the Permit that are not required by any federal authority represent state mandates, and the City is entitled to reimbursement for the cost of implementing them.

The Permit Improperly Requires the Copermittees to Regulate Phase II Entities.

The Permit holds the Copermittees responsible for inputs into their respective MS4s from what the EPA has classified as Phase II storm water dischargers. Most of these entities qualify as local agencies within the meaning of the Government Code. (Cal. Gov. Code § 53090) Pursuant to the Government Code, the Copermittees have minimal authority over their conduct. (Cal. Gov. Code § 53091) This is especially true with regard to school facilities which are exempt from many of the conditions that the Permit will require the City to enforce. Such exemptions significantly limit the ability of the Copermittees to

regulate stormwater discharges from local agencies.

The City made this comment in its last letter to the SDRWQCB. While the SDRWQCB did provide a response, its overall response failed to adequately acknowledge the inability of the Copermittees to regulate Phase II entities. (See Response to Comments, p. 7.) At a minimum, the Permit should be amended to reflect this lack of authority, and should be rewritten to absolve the Copermittees of responsibility for enforcing stormwater regulations against those entities that have been issued Phase II Permits, or have been classified by the State Water Resources Control Board as "Non-traditional Small MS4s anticipated to be designated in the future."

The Permit Does not Clearly Allocate Responsibility for BMP Implementation for Flood Control Structure.

Permit section D.3.a.(4) requires each Copermittee to implement procedures to assure that flood management projects assess water quality impacts, and requires all Copermittees to evaluate their existing flood control devices for impacts on storm water quality. This is despite the fact that the Orange County Flood Control District owns, operates and maintains virtually all of the flood control devices in the Permit area.

The City raised this issue in its last letter to the SDRWQCB, and the SDRWQCB responded stating:

The Regional Board appreciates the fact that many structural flood control devices are owned and operated by the Orange County Flood Control District, which is also a Copermittee. *Each Copermittee must meet the requirements of the Tentative Order for its structural flood control devices.* The Regional Board expects that the Flood Control District and other Copermittees will communicate with each other regarding structures owned by the District that serve other municipalities.

(Response to Comments, p. 58, *emphasis added.*)

The SDRWQCB's response implies that it will not hold the City responsible for the maintenance and impact of flood control structures that the City lacks the authority to control. While this language is helpful, in order to clarify responsibility for flood control structures, the Permit should be revised to reflect the SDRWQCB's response to comments.

Permit section D.4.h. Does Not Adequately Define the Requirements for Compliance.

Permit section D.4.h. has been modified to state that the Copermittees must "implement management measures and procedures to prevent, respond to, contain and clean up all sewage and other spills that may discharge into its MS4 from any source (including private laterals and failing septic systems)."

Because it is unclear what is meant by "management measures and procedures", it is unclear what compliance with this section will require. The City is concerned that the ambiguity created by this language will be used to require a comprehensive management program. The City therefore requests that SDRWQCB clarify what is meant by the terms "management measures and procedures" so that the Copermittees may properly comment on the potential requirements.

The Permit Improperly Holds Copermittees Responsible for the Maintenance and Operation of Sanitary Sewers.

Permit sections D.3.a.(7), and D.4.h. require the Copermittees to implement controls to prevent and eliminate infiltration of seepage from sanitary sewers to MS4s, and to prevent, respond to, contain and clean up all sewage that may discharge into their MS4.

The City previously noted that these requirements are unnecessary because the City, as well as most of south Orange County, is serviced by numerous water districts that own, operate, and maintain their own sanitary sewer infrastructure. The SDRWQCB responded stating that the requirements included in Permit § D.3.a.(7) are "reasonable functions of MS4 operators." (Response to Comments, p. 58.)

Permit sections D.3.a.(7), and D.4.h. do not address a situation where MS4 operators are "passively accepting" runoff from another entity. Rather, seepage and other spills are the result of poor maintenance on the part of other entities such as the sanitary sewer operator. Accordingly, in order to limit such inputs to the MS4 the Copermittees must essentially oversee the operations and maintenance of the sanitary sewer operators within the Copermittees respective jurisdictions. Such oversight of a local agency's activities is not the traditional, or appropriate role of an MS4 operator.

The City, therefore, requests that the SDRWQCB limit the requirements contained in these sections, and revise them to clearly state that those Copermittees who do not own or operate their own sanitary sewer systems are only required to work cooperatively with local sanitary sewer operators to prevent seepage and other spills from entering the MS4.

The Permit Should not Require BMP Implementation for Mobile Businesses.

Despite comments from a number of the Copermittees, Permit section D.3.b.(3) still requires the development and implementation of a number of programs to reduce the discharge of pollutants from mobile businesses. As a practical matter, these requirements will be very difficult to enforce.

The SDRWQCB responded to the City's previous comments on this issue stating:

The language in the Tentative Order is intended to provide broad flexibility to the Copermittees to account for the individual make-up of each municipality and for the difficulties with identifying and

communicating with mobile business operators. This section has not been revised.

(Response to Comments p. 60.)

While the City welcomes the SDRWQCB's efforts to provide the Copermittees with broad flexibility, the City feels that the difficulties associated with regulating mobile businesses outweigh any benefits provided by such flexibility.

The SDRWQCB should therefore revise this section of the Permit to provide the Copermittees with the discretion to focus on mobile sources when they identify them as a significant source of stormwater pollution affecting their jurisdiction. As is the case with residential, individual car washing, the City will have the opportunity, and authority to regulate such discharges if they are, or at any time become, a "significant source of pollutants to waters of the U.S."

The Permit should not Require a Long Term Business Plan.

The SDRWQCB declined to change the requirement that the Copermittees develop a business plan for their respective stormwater programs. Consequently, Permit section F.3. will still require each Copermittee to submit a business plan that identifies a long term funding strategy for program evolution and funding decisions.

In response to the City's previous comments on this issue, SDRWQCB provided the following justification:

Currently each Copermittee provides an annual estimate of its budget for the upcoming annual reporting period. This does not demonstrate that each proposed program activity will be fully implemented because many proposed activities either have longer construction periods or require future expenditures for operation and maintenance (O&M).

(Response to Comments, p. 68.)

As stated in our previous comment, the City does not always have information on the future sources of funding for its stormwater program. This makes production of a "Business Plan" difficult. More importantly, the SDRWQCB does not need to know the long term funding sources for each Copermittee's storm water program. Requiring such a report is overreaching in a manner that will unnecessarily cost the Copermittees additional time and resources.

Notably, the applicable Federal Regulations do not require a long term funding plan such as that currently required by the Permit. The Federal Regulation cited by the SDRWQCB in its response to comments does not support the requirement that each Copermittee develop a long term funding plan. As written, 40 C.F.R. § 122.26(d)(2)(vi) states:

For each fiscal year to be covered by the permit, a fiscal analysis of the

Mr. John H. Robertus

August 22, 2007

Page 6 of 7

Revised Tentative Order No. R9-2007-0002

necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under paragraphs (d)(2) (iii) and (iv) of this section. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

Any mention of funding beyond each fiscal year is absent from this regulation. In fact, 40 C.F.R. § 122.26(d)(2)(vi) requires nothing more than an annual assessment of funding. Consequently, the current requirement that the Copermittees provide an annual estimate of their budget for the upcoming annual reporting period is fully compliant with federal regulations, and more stringent requirements are unnecessary.

Moreover, the Copermittees have not given the SDRWQCB any reason to need a long term funding assessment. Although the response to comments cites a number of projects that will require long term funding, to date, the Copermittees have not under-funded any portion of their respective stormwater programs. If the Copermittees are unable to fund their stormwater programs because of a lack of planning, they will be in violation of the Permit. This result is sufficient to ensure adequate funding for all aspects of the Copermittees programs.

Although there may be benefits to long term financial planning, the authority and onus for implementing a long term plan properly resides with the individual Copermittees. The City therefore requests that the SDRWQCB amend the Permit and recommend rather than require a "Business Plan."

The Permit's Hydromodification Requirements May Preclude Superior Alternatives.

In its previous letter, the City provided limited comments on the issues raised by Permit's hydromodification requirements. The City is fully aware of the benefits that limiting the impact of hydromodification can have for water quality. However, the City is concerned that the Permit may limit otherwise effective forms of hydromodification best management practices by dictating specific requirements.

The City therefore requests that the SDRWQCB limit the requirements of Permit, including sections D.1.h., and D.1.d.(4)-(6) to allow the Copermittees to require management procedures that will prevent adverse impacts on downstream hydrologic conditions *in any format the Copermittees may choose*. This broad level of discretion will allow the Copermittees to ensure that innovative stormwater solutions are developed in a manner that is complementary to the applicable development project.

Conclusion.

We appreciate your attention to our comments. As stated at the beginning of this letter, the City views these comments as part of the on-going, open dialogue between the Copermittees and the SDRWQCB to help develop an effective Permit for this region.

Mr. John H. Robertus

August 22, 2007

Page 7 of 7

Revised Tentative Order No. R9-2007-0002

The City is committed to the goal of water quality improvement and wants to work with the SDRWQCB in developing the most cost-effective way to reach that goal. We look forward to receiving your response to the above comments and concerns. If you should have any questions, please contact Devin Slaven, Water Quality Specialist, at (949) 461-3436.

Sincerely,

CITY OF LAKE FOREST



Robert L. Woodings, P.E.

Director of Public Works/City Engineer

cc: Robert C. Dunek, City Manager

Theodore G. Simon, P.E., Engineering Services Manager

Devin E. Slaven, REA, Water Quality Specialist

Chris Crompton, County of Orange, RDMD

Jeremy Haas, Environmental Scientist, SDRWQCB

EXHIBIT B

Co-Permittee Costs: Implementation of Watershed Activities

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|-------------------|----------------|----------------|----------------|----------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$10,000.00 | \$12,000.00 | \$14,400.00 | \$17,280.00 | \$20,736.00 |
| Chula Vista | \$35,000.00 | \$36,500.00 | \$38,000.00 | \$39,500.00 | \$41,000.00 |
| Coronado | \$3,000.00 | \$3,600.00 | \$4,320.00 | \$5,184.00 | \$6,221.00 |
| Del Mar | \$7,500.00 | \$9,500.00 | \$10,450.00 | \$11,495.00 | \$12,644.50 |
| El Cajon | \$52,002.00 | \$38,848.00 | \$49,040.00 | \$74,592.00 | \$92,182.00 |
| Encinitas | \$3,000.00 | \$3,600.00 | \$4,320.00 | \$5,184.00 | \$6,222.00 |
| Escondido | \$20,000.00 | \$24,000.00 | \$28,800.00 | \$34,560.00 | \$41,470.00 |
| Imperial Beach | \$3,000.00 | \$3,600.00 | \$4,320.00 | \$5,184.00 | \$6,221.00 |
| La Mesa | \$30,000.00 | \$30,000.00 | \$36,000.00 | \$43,200.00 | \$51,840.00 |
| Lemon Grove | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| National City | \$199,470.00 | \$207,448.80 | \$215,746.75 | \$224,376.62 | \$233,351.69 |
| Oceanside | \$25,000.00 | \$30,000.00 | \$36,000.00 | \$43,200.00 | \$51,840.00 |
| Poway | \$500.00 | \$5,000.00 | \$6,000.00 | \$7,200.00 | \$8,640.00 |
| San Diego | \$600,000.00 | \$660,000.00 | \$726,000.00 | \$798,600.00 | \$878,460.00 |
| San Marcos | \$10,000.00 | \$12,000.00 | \$14,400.00 | \$17,280.00 | \$20,736.00 |
| Santee | \$4,408.00 | \$9,212.00 | \$9,673.00 | \$10,157.00 | \$10,665.00 |
| Solana Beach | \$1,000.00 | \$1,200.00 | \$1,440.00 | \$1,728.00 | \$2,073.60 |
| Vista | \$10,000.00 | \$12,000.00 | \$14,400.00 | \$17,280.00 | \$20,736.00 |
| Inincorporated | \$40,000.00 | \$48,000.00 | \$57,600.00 | \$69,120.00 | \$82,944.00 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$1,053,880.00 | \$1,146,508.80 | \$1,270,909.75 | \$1,425,120.62 | \$1,587,982.79 |

* Co-Permittee Not Participating in Test Claim

Co-Permittee Costs: WURMP Cost-Share Agreements

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|-------------------|--------------|--------------|--------------|--------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Coronado | \$26,000.00 | \$27,000.00 | \$28,350.00 | \$29,768.00 | \$31,256.00 |
| Del Mar | \$3,000.00 | \$3,150.00 | \$3,307.50 | \$3,472.88 | \$3,646.52 |
| El Cajon | \$2,998.00 | \$16,152.00 | \$16,960.00 | \$17,808.00 | \$18,698.00 |
| Encinitas | \$2,800.00 | \$3,500.00 | \$4,000.00 | \$4,500.00 | \$5,000.00 |
| Escondido | \$6,125.00 | \$10,250.00 | \$10,760.00 | \$11,300.00 | \$11,865.00 |
| Imperial Beach | \$28,000.00 | \$29,400.00 | \$30,870.00 | \$32,414.00 | \$34,035.00 |
| La Mesa | \$1,305.00 | \$2,000.00 | \$2,100.00 | \$2,205.00 | \$2,315.00 |
| Lemon Grove | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| National City | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Oceanside | \$3,349.00 | \$3,482.00 | \$3,621.00 | \$3,765.00 | \$3,915.00 |
| Poway | \$8,000.00 | \$4,900.00 | \$5,100.00 | \$5,300.00 | \$5,511.00 |
| San Diego | \$507,346.00 | \$532,713.00 | \$554,021.00 | \$576,183.00 | \$599,230.00 |
| San Marcos | \$3,314.00 | \$3,479.70 | \$3,653.69 | \$3,836.37 | \$4,028.19 |
| Santee | \$2,437.00 | \$4,874.00 | \$5,118.00 | \$5,374.00 | \$5,643.00 |
| Solana Beach | \$12,000.00 | \$12,600.00 | \$13,230.00 | \$13,891.50 | \$14,586.08 |
| Vista | \$4,000.00 | \$5,600.00 | \$6,048.00 | \$6,350.00 | \$6,668.00 |
| Unincorporated | \$15,000.00 | \$25,000.00 | \$26,250.00 | \$27,563.00 | \$28,940.00 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$599,674.00 | \$657,100.70 | \$685,039.19 | \$713,962.74 | \$744,080.78 |

* Co-Permittee Not Participating in Test Claim

Co-Permittee Costs: Staffing for Watershed URMP Development and Implementation

| Copermittee | Fiscal Year Costs | | | | |
|---|-------------------|----------------|----------------|----------------|----------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$26,962.00 | \$27,281.10 | \$28,645.10 | \$30,077.41 | \$39,923.36 |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Coronado | \$396.00 | \$2,484.00 | \$2,583.00 | \$2,687.00 | \$2,794.00 |
| Del Mar | \$9,897.50 | \$8,917.00 | \$9,254.79 | \$9,606.09 | \$9,971.45 |
| El Cajon | \$34,107.00 | \$35,472.00 | \$36,890.00 | \$38,366.00 | \$39,900.00 |
| Encinitas | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Escondido | \$59,280.00 | \$59,280.00 | \$61,585.00 | \$62,890.00 | \$64,775.00 |
| Imperial Beach | \$452.00 | \$1,584.00 | \$1,656.00 | \$1,728.00 | \$1,800.00 |
| La Mesa | \$44,437.12 | \$46,215.00 | \$48,064.00 | \$49,987.00 | \$51,986.00 |
| Lemon Grove | \$1,968.00 | \$2,047.00 | \$2,129.00 | \$2,214.00 | \$2,302.00 |
| National City | \$16,716.25 | \$22,041.75 | \$22,923.42 | \$23,840.36 | \$24,793.97 |
| Oceanside | \$13,172.00 | \$13,698.00 | \$14,245.00 | \$14,814.00 | \$15,406.00 |
| Poway | \$60,900.00 | \$65,772.00 | \$71,034.00 | \$76,716.00 | \$82,854.00 |
| San Diego | \$253,652.00 | \$308,505.00 | \$320,845.00 | \$333,679.00 | \$347,026.00 |
| San Marcos | \$37,232.00 | \$38,721.28 | \$40,270.13 | \$41,880.94 | \$43,556.17 |
| Santee | \$4,408.00 | \$4,606.00 | \$4,836.00 | \$5,078.00 | \$5,332.00 |
| Solana Beach | \$10,415.52 | \$10,832.14 | \$11,265.43 | \$11,716.04 | \$12,184.69 |
| Vista | \$22,822.80 | \$41,102.10 | \$42,746.18 | \$44,456.03 | \$46,234.27 |
| Unincorporated Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$1,033,212.19 | \$1,401,765.37 | \$1,460,707.33 | \$1,521,140.56 | \$1,593,099.79 |

* Co-Permittee Not Participating in Test Claim

Co-Permittee Costs: 13.0 Effectiveness Assessment - Annual JURMP Assessment and Reporting

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|-------------------|--------------|--------------|--------------|--------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$12,867.45 | \$13,356.41 | \$13,863.96 | \$14,390.79 | \$14,937.64 |
| Chula Vista | \$73,112.00 | \$152,072.00 | \$158,155.00 | \$164,481.00 | \$171,060.00 |
| Coronado | \$75,000.00 | \$18,210.00 | \$18,939.00 | \$19,696.00 | \$20,484.00 |
| Del Mar | \$0.00 | \$46,431.00 | \$48,288.24 | \$50,219.77 | \$52,228.56 |
| El Cajon | \$0.00 | \$86,729.00 | \$90,199.00 | \$93,807.00 | \$97,559.00 |
| Encinitas | \$0.00 | \$32,240.00 | \$33,530.00 | \$34,871.00 | \$36,266.00 |
| Escondido | \$7,638.00 | \$6,830.00 | \$7,814.00 | \$8,939.00 | \$10,226.00 |
| Imperial Beach | \$0.00 | \$42,900.00 | \$44,850.00 | \$46,800.00 | \$48,750.00 |
| La Mesa | \$79,609.00 | \$84,609.68 | \$90,993.16 | \$97,431.72 | \$103,928.60 |
| Lemon Grove | \$0.00 | \$39,975.00 | \$41,574.00 | \$43,237.00 | \$44,966.00 |
| National City | \$16,716.25 | \$22,041.75 | \$22,923.42 | \$23,840.36 | \$24,793.97 |
| Oceanside | \$3,256.00 | \$3,515.00 | \$4,255.00 | \$4,995.00 | \$5,624.00 |
| Poway | \$0.00 | \$37,303.00 | \$38,795.12 | \$40,346.92 | \$41,960.80 |
| San Diego | \$35,820.00 | \$77,127.00 | \$80,212.00 | \$83,420.00 | \$86,757.00 |
| San Marcos | \$16,250.00 | \$17,062.50 | \$17,915.63 | \$18,811.41 | \$19,751.98 |
| Santee | \$51,220.00 | \$52,965.00 | \$55,086.00 | \$56,765.00 | \$59,033.00 |
| Solana Beach | \$0.00 | \$7,715.20 | \$8,023.81 | \$8,344.76 | \$8,678.55 |
| Vista | \$20,874.75 | \$43,416.75 | \$45,153.42 | \$46,959.56 | \$48,837.94 |
| Unincorporated | \$0.00 | \$77,794.08 | \$80,905.84 | \$84,142.08 | \$87,507.76 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$392,363.45 | \$862,293.37 | \$901,476.59 | \$941,498.36 | \$983,350.80 |

* Co-Permittee Not Participating in Test Claim

Co-Permittee Costs: 10.0 Education - Educational Surveys and Tests

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|-------------------|--------------|--------------|--------------|--------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$4,850.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Coronado | \$2,887.00 | \$6,005.00 | \$6,245.00 | \$6,495.00 | \$6,755.00 |
| Del Mar | \$0.00 | \$12,480.00 | \$12,979.20 | \$13,498.37 | \$14,038.30 |
| El Cajon | \$0.00 | \$23,760.00 | \$24,710.00 | \$25,699.00 | \$26,727.00 |
| Encinitas | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Escondido | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Imperial Beach | \$0.00 | \$12,672.00 | \$13,248.00 | \$13,824.00 | \$14,400.00 |
| La Mesa | \$0.00 | \$11,536.00 | \$11,997.72 | \$12,477.64 | \$12,976.32 |
| Lemon Grove | \$0.00 | \$11,808.00 | \$12,280.00 | \$12,772.00 | \$13,282.00 |
| National City | \$1,769.78 | \$5,521.71 | \$5,742.58 | \$5,972.28 | \$6,211.17 |
| Oceanside | \$10,656.00 | \$11,082.00 | \$11,525.00 | \$11,986.00 | \$12,465.00 |
| Poway | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| San Diego | \$14,505.00 | \$15,085.00 | \$15,688.00 | \$16,316.00 | \$16,969.00 |
| San Marcos | \$2,700.00 | \$2,808.00 | \$2,920.32 | \$3,037.13 | \$3,158.62 |
| Santee | \$25,250.00 | \$26,259.00 | \$27,310.00 | \$28,404.00 | \$29,539.00 |
| Solana Beach | \$0.00 | \$5,207.76 | \$5,416.07 | \$5,632.71 | \$5,858.02 |
| Vista | \$0.00 | \$5,000.00 | \$5,200.00 | \$5,408.00 | \$5,624.00 |
| Unincorporated | \$0.00 | \$22,095.36 | \$22,979.17 | \$23,898.34 | \$24,854.28 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$62,617.78 | \$171,319.83 | \$178,241.06 | \$185,420.48 | \$192,857.71 |

* Co-Permittee Not Participating in Test Claim

CoPermittee Costs: 6.0 Municipal - Conveyance System Cleaning

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|-------------------|----------------|----------------|----------------|----------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$56,000.00 | \$58,128.00 | \$60,336.86 | \$62,629.66 | \$65,009.59 |
| Chula Vista | \$824,196.00 | \$1,950,755.00 | \$1,734,316.00 | \$1,795,789.00 | \$1,859,720.00 |
| Coronado | \$12,000.00 | \$42,480.00 | \$44,179.00 | \$45,946.00 | \$47,784.00 |
| Del Mar | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| El Cajon | \$0.00 | \$269,424.00 | \$280,151.00 | \$291,307.00 | \$302,909.00 |
| Encinitas | \$48,573.20 | \$50,516.13 | \$52,536.77 | \$54,638.24 | \$56,824.00 |
| Escondido | \$221,900.00 | \$188,200.00 | \$194,300.00 | \$200,200.00 | \$206,300.00 |
| Imperial Beach | \$171,200.00 | \$178,048.00 | \$185,169.92 | \$192,576.72 | \$200,279.79 |
| La Mesa | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Lemon Grove | \$14,924.00 | \$15,520.96 | \$16,141.80 | \$16,787.47 | \$17,458.97 |
| National City | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Oceanside | \$351,910.00 | \$360,580.00 | \$369,597.00 | \$523,000.00 | \$544,000.00 |
| Poway | \$365,214.00 | \$376,170.00 | \$387,456.00 | \$399,080.00 | \$411,052.00 |
| San Diego | \$929,200.00 | \$966,368.00 | \$1,005,022.72 | \$1,045,223.63 | \$1,087,032.57 |
| San Marcos | \$104,000.00 | \$108,160.00 | \$112,486.40 | \$116,985.86 | \$121,665.29 |
| Santee | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Solana Beach | \$1,766.88 | \$1,837.56 | \$1,911.06 | \$1,987.50 | \$2,067.00 |
| Vista | \$117,611.85 | \$130,062.60 | \$135,265.10 | \$140,675.71 | \$146,302.74 |
| Unincorporated | \$237,591.55 | \$247,095.21 | \$256,979.02 | \$267,258.18 | \$277,948.51 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$3,456,087.48 | \$4,943,345.46 | \$4,835,848.66 | \$5,154,084.97 | \$5,346,353.46 |

* Co-Permittee Not Participating in Test Claim

Co -Permittee Costs: 6.0 Municipal - (contract costs)

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Coronado | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Del Mar | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| El Cajon | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Encinitas | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Escondido | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Imperial Beach | \$48,000.00 | \$49,920.00 | \$51,917.00 | \$56,070.00 | \$58,313.00 |
| La Mesa | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Lemon Grove | \$33,565.00 | \$34,907.60 | \$36,303.90 | \$37,756.06 | \$39,266.30 |
| National City | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Oceanside | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Poway | \$221,092.00 | \$227,725.00 | \$234,557.00 | \$241,593.00 | \$248,841.00 |
| San Diego | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| San Marcos | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Santee | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Solana Beach | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Vista | \$79,967.52 | \$83,166.22 | \$86,492.87 | \$89,952.58 | \$93,550.69 |
| Unincorporated | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$382,624.52 | \$395,718.82 | \$409,270.77 | \$425,371.64 | \$439,970.99 |

* Co-Permittee Not Participating in Test Claim

**Co-Permittee Costs: 6.0 Municipal - Street Sweeping
(staff costs)**

| Copermittee | Fiscal Year Costs | | | | |
|-------------|-------------------|--|--|--|--|
|-------------|-------------------|--|--|--|--|

| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
|--------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Carlsbad | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Coronado | \$4,011.00 | \$4,171.00 | \$4,338.00 | \$4,512.00 | \$4,692.00 |
| Del Mar | \$14,779.80 | \$15,370.99 | \$15,985.83 | \$16,625.27 | \$17,290.28 |
| El Cajon | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Encinitas | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Escondido | \$90,000.00 | \$92,700.00 | \$95,500.00 | \$98,300.00 | \$101,000.00 |
| Imperial Beach | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| La Mesa | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Lemon Grove | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| National City | \$1,379.09 | \$2,868.51 | \$2,983.25 | \$3,102.58 | \$3,226.68 |
| Oceanside | \$465,000.00 | \$484,000.00 | \$503,000.00 | \$523,000.00 | \$544,000.00 |
| Poway | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| San Diego | \$400,000.00 | \$416,000.00 | \$432,640.00 | \$449,945.60 | \$467,943.42 |
| San Marcos | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Santee | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Solana Beach | \$2,314.56 | \$2,407.14 | \$2,503.43 | \$2,603.57 | \$2,707.71 |
| Vista | \$4,438.20 | \$4,615.73 | \$4,800.36 | \$4,992.37 | \$5,192.07 |
| Unincorporated | \$32,398.85 | \$127,291.47 | \$132,383.13 | \$137,678.46 | \$143,185.60 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$1,014,321.50 | \$1,149,424.85 | \$1,194,134.00 | \$1,240,759.84 | \$1,289,237.76 |

* Co-Permittee Not Participating in Test Claim

**Co-Permittee Costs: Municipal- Street Sweeping
(equipment costs)**

| | |
|-------------|-------------------|
| Copermittee | Fiscal Year Costs |
|-------------|-------------------|

| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
|--------------------------|-----------------------|---------------------|---------------------|---------------------|---------------------|
| Carlsbad | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Coronado | \$27,500.00 | \$27,500.00 | \$27,500.00 | \$27,500.00 | \$27,500.00 |
| Del Mar | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| El Cajon | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Encinitas | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Escondido | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Imperial Beach | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| La Mesa | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Lemon Grove | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| National City | \$745.46 | \$1,580.36 | \$1,643.58 | \$1,709.32 | \$1,777.70 |
| Oceanside | \$442,000.00 | \$460,000.00 | \$478,000.00 | \$497,000.00 | \$517,000.00 |
| Poway | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| San Diego | \$1,210,000.00 | \$218,400.00 | \$227,136.00 | \$236,221.44 | \$245,670.30 |
| San Marcos | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Santee | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Solana Beach | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Vista | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Unincorporated | \$400,000.00 | \$140,000.00 | \$140,000.00 | \$140,000.00 | \$140,000.00 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$2,080,245.46 | \$847,480.36 | \$874,279.58 | \$902,430.76 | \$931,947.99 |

* Co-Permittee Not Participating in Test Claim

Co-Permittee Costs - Long-term Effectiveness Assessment

| Copermittee | Fiscal Year Costs | | | | | MOU % |
|-----------------------|-------------------|---------------|---------------|---------------------|---------------|---------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | |
| Carlsbad | \$0.00 | \$0.00 | \$0.00 | \$6,699.00 | \$0.00 | 3.19% |
| Chula Vista | \$0.00 | \$0.00 | \$0.00 | \$11,550.00 | \$0.00 | 5.50% |
| Coronado | \$0.00 | \$0.00 | \$0.00 | \$2,184.00 | \$0.00 | 1.04% |
| Del Mar | \$0.00 | \$0.00 | \$0.00 | \$1,281.00 | \$0.00 | 0.61% |
| El Cajon | \$0.00 | \$0.00 | \$0.00 | \$5,271.00 | \$0.00 | 2.51% |
| Encinitas | \$0.00 | \$0.00 | \$0.00 | \$4,410.00 | \$0.00 | 2.10% |
| Escondido | \$0.00 | \$0.00 | \$0.00 | \$7,896.00 | \$0.00 | 3.76% |
| Imperial Beach | \$0.00 | \$0.00 | \$0.00 | \$2,037.00 | \$0.00 | 0.97% |
| La Mesa | \$0.00 | \$0.00 | \$0.00 | \$3,528.00 | \$0.00 | 1.68% |
| Lemon Grove | \$0.00 | \$0.00 | \$0.00 | \$2,142.00 | \$0.00 | 1.02% |
| National City | \$0.00 | \$0.00 | \$0.00 | \$3,570.00 | \$0.00 | 1.70% |
| Oceanside | \$0.00 | \$0.00 | \$0.00 | \$9,912.00 | \$0.00 | 4.72% |
| Poway | \$0.00 | \$0.00 | \$0.00 | \$5,397.00 | \$0.00 | 2.57% |
| San Diego | \$0.00 | \$0.00 | \$0.00 | \$61,803.00 | \$0.00 | 29.43% |
| San Marcos | \$0.00 | \$0.00 | \$0.00 | \$5,208.00 | \$0.00 | 2.48% |
| Santee | \$0.00 | \$0.00 | \$0.00 | \$4,116.00 | \$0.00 | 1.96% |
| Solana Beach | \$0.00 | \$0.00 | \$0.00 | \$1,722.00 | \$0.00 | 0.82% |
| Vista | \$0.00 | \$0.00 | \$0.00 | \$5,502.00 | \$0.00 | 2.62% |
| Unincorporated | \$0.00 | \$0.00 | \$0.00 | \$62,454.00 | \$0.00 | 29.74% |
| Airport Authority | \$0.00 | \$0.00 | \$0.00 | \$1,575.00 | \$0.00 | 0.75% |
| Port District | \$0.00 | \$0.00 | \$0.00 | \$1,743.00 | \$0.00 | 0.83% |
| Program Totals | \$0.00 | \$0.00 | \$0.00 | \$210,000.00 | \$0.00 | 100.0% |

**** Please note Co-Permittee's Airport Authority and Port District are not participating in the Test Claim.**

Co-Permittee Costs - Low-Impact Development (LID) and Standard Urban Stormwater Mitigation Plan (SUSMP)

| Copermittee | Fiscal Year Costs | | | | | MOU % |
|-----------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | % of Total |
| Carlsbad | \$1,674.75 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 3.19% |
| Chula Vista | \$2,887.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 5.50% |
| Coronado | \$546.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 1.04% |
| Del Mar | \$320.25 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 0.61% |
| El Cajon | \$1,317.75 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 2.51% |
| Encinitas | \$1,102.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 2.10% |
| Escondido | \$1,974.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 3.76% |
| Imperial Beach | \$509.25 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 0.97% |
| La Mesa | \$882.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 1.68% |
| Lemon Grove | \$535.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 1.02% |
| National City | \$892.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 1.70% |
| Oceanside | \$2,478.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 4.72% |
| Poway | \$1,349.25 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 2.57% |
| San Diego | \$15,450.75 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 29.43% |
| San Marcos | \$1,302.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 2.48% |
| Santee | \$1,029.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 1.96% |
| Solana Beach | \$430.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 0.82% |
| Vista | \$1,375.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 2.62% |
| Unincorporated | \$15,613.50 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 29.74% |
| Airport Authority | \$393.75 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 0.75% |
| Port District | \$435.75 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 0.83% |
| Program Totals | \$52,500.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | 100.0% |

**** Please note Co-Permittee's Airport Authority and Port District are not participating in the Test Claim.**

Co-Permittee Costs - HMP Development

| Copermittee | Fiscal Year Costs | | | | | MOU % |
|-----------------------|-------------------|-------------------|-------------|-------------|-------------|---------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | % of Total |
| Carlsbad | \$36,989.70 | \$24,659.80 | \$0.00 | \$0.00 | \$0.00 | 5.87% |
| Chula Vista | \$61,809.16 | \$41,206.10 | \$0.00 | \$0.00 | \$0.00 | 9.81% |
| Coronado | \$3,352.19 | \$2,234.79 | \$0.00 | \$0.00 | \$0.00 | 0.53% |
| Del Mar | \$3,511.67 | \$2,341.12 | \$0.00 | \$0.00 | \$0.00 | 0.56% |
| El Cajon | \$5,026.76 | \$3,351.17 | \$0.00 | \$0.00 | \$0.00 | 0.80% |
| Encinitas | \$9,319.49 | \$6,212.99 | \$0.00 | \$0.00 | \$0.00 | 1.48% |
| Escondido | \$17,898.32 | \$11,932.21 | \$0.00 | \$0.00 | \$0.00 | 2.84% |
| Imperial Beach | \$3,418.64 | \$2,279.09 | \$0.00 | \$0.00 | \$0.00 | 0.54% |
| La Mesa | \$6,614.94 | \$4,409.96 | \$0.00 | \$0.00 | \$0.00 | 1.05% |
| Lemon Grove | \$3,578.12 | \$2,385.42 | \$0.00 | \$0.00 | \$0.00 | 0.57% |
| National City | \$6,282.68 | \$4,188.45 | \$0.00 | \$0.00 | \$0.00 | 1.00% |
| Oceanside | \$22,510.02 | \$15,006.68 | \$0.00 | \$0.00 | \$0.00 | 3.57% |
| Poway | \$9,498.91 | \$6,332.61 | \$0.00 | \$0.00 | \$0.00 | 1.51% |
| San Diego | \$131,396.67 | \$87,597.78 | \$0.00 | \$0.00 | \$0.00 | 20.86% |
| San Marcos | \$33,108.96 | \$22,072.64 | \$0.00 | \$0.00 | \$0.00 | 5.26% |
| Santee | \$11,133.61 | \$7,422.40 | \$0.00 | \$0.00 | \$0.00 | 1.77% |
| Solana Beach | \$3,684.45 | \$2,456.30 | \$0.00 | \$0.00 | \$0.00 | 0.58% |
| Vista | \$11,612.05 | \$7,741.37 | \$0.00 | \$0.00 | \$0.00 | 1.84% |
| Unincorporated | \$243,253.67 | \$162,169.12 | \$0.00 | \$0.00 | \$0.00 | 38.61% |
| Airport Authority | \$3,000.00 | \$2,000.00 | \$0.00 | \$0.00 | \$0.00 | 0.48% |
| Port District | \$3,000.00 | \$2,000.00 | \$0.00 | \$0.00 | \$0.00 | 0.48% |
| Program Totals | 630,000.00 | 420,000.00 | 0.00 | 0.00 | 0.00 | 100.0% |

**** Please note Co-Permittee's Airport Authority and Port District are not participating in the Test Claim.**

Co-Permittee Costs -Regional Residential Education Program Development and Implementation

| Copermittee | Fiscal Year Costs | | | | | MOU % |
|-----------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | % of Total |
| Carlsbad | \$4,186.88 | \$8,373.75 | \$16,747.50 | \$17,584.88 | \$18,464.13 | 3.19% |
| Chula Vista | \$7,218.75 | \$14,437.50 | \$28,875.00 | \$30,318.75 | \$31,834.72 | 5.50% |
| Coronado | \$1,365.00 | \$2,730.00 | \$5,460.00 | \$5,733.00 | \$6,019.66 | 1.04% |
| Del Mar | \$800.63 | \$1,601.25 | \$3,202.50 | \$3,362.63 | \$3,530.76 | 0.61% |
| El Cajon | \$3,294.38 | \$6,588.75 | \$13,177.50 | \$13,836.38 | \$14,528.21 | 2.51% |
| Encinitas | \$2,756.25 | \$5,512.50 | \$11,025.00 | \$11,576.25 | \$12,155.07 | 2.10% |
| Escondido | \$4,935.00 | \$9,870.00 | \$19,740.00 | \$20,727.00 | \$21,763.37 | 3.76% |
| Imperial Beach | \$1,273.13 | \$2,546.25 | \$5,092.50 | \$5,347.13 | \$5,614.49 | 0.97% |
| La Mesa | \$2,205.00 | \$4,410.00 | \$8,820.00 | \$9,261.00 | \$9,724.06 | 1.68% |
| Lemon Grove | \$1,338.75 | \$2,677.50 | \$5,355.00 | \$5,622.75 | \$5,903.89 | 1.02% |
| National City | \$2,231.25 | \$4,462.50 | \$8,925.00 | \$9,371.25 | \$9,839.82 | 1.70% |
| Oceanside | \$6,195.00 | \$12,390.00 | \$24,780.00 | \$26,019.00 | \$27,319.97 | 4.72% |
| Poway | \$3,373.13 | \$6,746.25 | \$13,492.50 | \$14,167.13 | \$14,875.49 | 2.57% |
| San Diego | \$38,626.88 | \$77,253.75 | \$154,507.50 | \$162,232.88 | \$170,344.67 | 29.43% |
| San Marcos | \$3,255.00 | \$6,510.00 | \$13,020.00 | \$13,671.00 | \$14,354.56 | 2.48% |
| Santee | \$2,572.50 | \$5,145.00 | \$10,290.00 | \$10,804.50 | \$11,344.73 | 1.96% |
| Solana Beach | \$1,076.25 | \$2,152.50 | \$4,305.00 | \$4,520.25 | \$4,746.27 | 0.82% |
| Vista | \$3,438.75 | \$6,877.50 | \$13,755.00 | \$14,442.75 | \$15,164.90 | 2.62% |
| Unincorporated | \$39,033.75 | \$78,067.50 | \$156,135.00 | \$163,941.75 | \$172,138.99 | 29.74% |
| Airport Authority | \$984.38 | \$1,968.75 | \$3,937.50 | \$4,134.38 | \$4,341.10 | 0.75% |
| Port District | \$1,089.38 | \$2,178.75 | \$4,357.50 | \$4,575.38 | \$4,804.15 | 0.83% |
| Program Totals | \$131,250.00 | \$262,500.00 | \$525,000.00 | \$551,250.00 | \$578,813.00 | 100.0% |

**** Please note Co-Permittee's Airport Authority and Port District are not participating in the Test Claim.**

Co-Permittee Costs: Working Body Participation

| Copermittee | Fiscal Year Costs | | | | |
|--------------------------|-------------------|--------------|--------------|--------------|--------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 |
| Carlsbad | \$45,973.20 | \$47,720.18 | \$32,593.54 | \$33,832.10 | \$35,117.72 |
| Chula Vista | \$9,648.00 | \$11,357.00 | \$7,606.00 | \$7,910.00 | \$8,226.00 |
| Coronado | \$10,186.00 | \$11,678.00 | \$11,755.00 | \$12,225.00 | \$12,714.00 |
| Del Mar | \$14,640.12 | \$16,084.22 | \$16,655.10 | \$17,248.81 | \$17,866.27 |
| El Cajon | \$14,958.57 | \$21,430.97 | \$19,364.64 | \$20,139.23 | \$20,944.80 |
| Encinitas | \$13,806.00 | \$16,339.00 | \$14,060.00 | \$14,622.00 | \$15,207.00 |
| Escondido | \$1,710.00 | \$4,560.00 | \$4,700.00 | \$4,840.00 | \$4,980.00 |
| Imperial Beach | \$4,536.00 | \$4,980.00 | \$4,968.00 | \$5,167.00 | \$5,373.00 |
| La Mesa | \$3,304.00 | \$4,769.00 | \$4,960.00 | \$5,158.00 | \$5,364.00 |
| Lemon Grove | \$4,428.00 | \$4,861.00 | \$4,968.00 | \$5,167.00 | \$5,373.00 |
| National City | \$14,345.40 | \$10,208.64 | \$10,616.99 | \$11,041.67 | \$11,483.33 |
| Oceanside | \$10,620.00 | \$13,578.00 | \$11,798.00 | \$12,270.00 | \$12,761.00 |
| Poway | \$8,097.00 | \$14,650.00 | \$13,128.00 | \$13,653.00 | \$14,199.00 |
| San Diego | \$26,391.00 | \$37,636.56 | \$39,142.02 | \$40,707.70 | \$42,336.01 |
| San Marcos | \$23,094.00 | \$25,097.00 | \$26,101.00 | \$27,145.00 | \$28,231.00 |
| Santee | \$17,701.00 | \$18,866.00 | \$15,490.00 | \$16,110.00 | \$16,754.00 |
| Solana Beach | \$5,786.00 | \$6,017.44 | \$6,258.14 | \$6,508.46 | \$6,768.80 |
| Vista | \$4,818.00 | \$10,309.85 | \$7,872.01 | \$11,264.25 | \$8,514.37 |
| Unincorporated | \$25,989.00 | \$32,862.00 | \$28,342.00 | \$29,475.00 | \$30,654.00 |
| Airport Authority | * | * | * | * | * |
| Port District | * | * | * | * | * |
| Program Totals | \$260,031.29 | \$313,004.86 | \$280,378.44 | \$294,484.22 | \$267,749.58 |

* Co-Permittee Not Participating in Test Claim

Co-Permittee Costs - Working Body Support

| Copermittee | Fiscal Year Costs | | | | | MOU % |
|-----------------------|-------------------|---------------------|---------------------|---------------------|---------------------|---------------|
| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | % of Total |
| Carlsbad | \$0.00 | \$17,333.66 | \$18,200.35 | \$19,110.36 | \$20,065.87 | 3.19% |
| Chula Vista | \$0.00 | \$29,885.63 | \$31,379.92 | \$32,948.91 | \$34,596.32 | 5.50% |
| Coronado | \$0.00 | \$5,651.10 | \$5,933.66 | \$6,230.34 | \$6,541.85 | 1.04% |
| Del Mar | \$0.00 | \$3,314.59 | \$3,480.32 | \$3,654.33 | \$3,837.05 | 0.61% |
| El Cajon | \$0.00 | \$13,638.71 | \$14,320.65 | \$15,036.68 | \$15,788.50 | 2.51% |
| Encinitas | \$0.00 | \$11,410.88 | \$11,981.42 | \$12,580.49 | \$13,209.50 | 2.10% |
| Escondido | \$0.00 | \$20,430.90 | \$21,452.45 | \$22,525.07 | \$23,651.30 | 3.76% |
| Imperial Beach | \$0.00 | \$5,270.74 | \$5,534.28 | \$5,810.99 | \$6,101.53 | 0.97% |
| La Mesa | \$0.00 | \$9,128.70 | \$9,585.14 | \$10,064.39 | \$10,567.60 | 1.68% |
| Lemon Grove | \$0.00 | \$5,542.43 | \$5,819.55 | \$6,110.52 | \$6,416.04 | 1.02% |
| National City | \$0.00 | \$9,237.38 | \$9,699.25 | \$10,184.21 | \$10,693.41 | 1.70% |
| Oceanside | \$0.00 | \$25,647.30 | \$26,929.68 | \$28,276.15 | \$29,689.93 | 4.72% |
| Poway | \$0.00 | \$13,964.74 | \$14,662.98 | \$15,396.12 | \$16,165.92 | 2.57% |
| San Diego | \$0.00 | \$159,915.26 | \$167,911.10 | \$176,306.60 | \$185,121.76 | 29.43% |
| San Marcos | \$0.00 | \$13,475.70 | \$14,149.49 | \$14,856.96 | \$15,599.80 | 2.48% |
| Santee | \$0.00 | \$10,650.15 | \$11,182.66 | \$11,741.79 | \$12,328.87 | 1.96% |
| Solana Beach | \$0.00 | \$4,455.68 | \$4,678.46 | \$4,912.38 | \$5,158.00 | 0.82% |
| Vista | \$0.00 | \$14,236.43 | \$14,948.25 | \$15,695.66 | \$16,480.43 | 2.62% |
| Unincorporated | \$0.00 | \$161,599.73 | \$169,679.79 | \$178,163.72 | \$187,071.74 | 29.74% |
| Airport Authority | \$0.00 | \$4,075.31 | \$4,279.08 | \$4,493.03 | \$4,717.68 | 0.75% |
| Port District | \$0.00 | \$4,510.01 | \$4,735.52 | \$4,972.29 | \$5,220.90 | 0.83% |
| Program Totals | \$0.00 | \$543,375.00 | \$570,544.00 | \$599,071.00 | \$629,024.00 | 100.0% |

**** Please note Co-Permittee's Airport Authority and Port District are not participating in the Test Claim.**

| Copermittee | Total Fiscal Year Costs for Each Co-Permittee | | | | |
|-------------|--|--|--|--|--|
|-------------|--|--|--|--|--|

| | FY 07-08 | FY 08-09 | FY 09-10 | FY 10-11 | FY 11-12 | TOTAL |
|-----------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Carlsbad | \$199,503.98 | \$208,852.90 | \$184,787.31 | \$201,604.20 | \$214,254.30 | \$1,009,002.70 |
| Chula Vista | \$1,013,871.41 | \$2,236,213.23 | \$1,998,331.92 | \$2,082,497.66 | \$2,146,437.04 | \$9,477,351.24 |
| Coronado | \$166,243.19 | \$148,092.79 | \$153,669.00 | \$159,746.00 | \$166,219.66 | \$793,970.64 |
| Del Mar | \$54,449.97 | \$119,190.17 | \$123,603.48 | \$130,464.14 | \$135,053.69 | \$562,761.46 |
| El Cajon | \$113,704.46 | \$515,394.60 | \$544,812.79 | \$595,862.29 | \$629,236.51 | \$2,399,010.64 |
| Encinitas | \$81,357.44 | \$129,331.50 | \$131,453.19 | \$142,381.98 | \$144,883.57 | \$629,407.69 |
| Escondido | \$431,460.32 | \$428,053.11 | \$444,651.45 | \$472,177.07 | \$486,030.67 | \$2,262,372.62 |
| Imperial Beach | \$260,389.02 | \$327,929.34 | \$342,091.42 | \$361,147.85 | \$374,786.28 | \$1,666,343.90 |
| La Mesa | \$168,357.06 | \$197,078.34 | \$212,520.02 | \$233,312.75 | \$248,701.58 | \$1,059,969.75 |
| Lemon Grove | \$60,337.37 | \$114,182.48 | \$118,751.70 | \$125,698.28 | \$128,552.16 | \$547,521.99 |
| National City | \$260,548.65 | \$289,599.85 | \$301,204.23 | \$317,008.64 | \$326,171.74 | \$1,494,533.12 |
| Oceanside | \$1,356,146.02 | \$1,432,978.98 | \$1,483,750.68 | \$1,698,237.15 | \$1,764,020.90 | \$7,735,133.73 |
| Poway | \$681,174.29 | \$761,839.60 | \$787,632.64 | \$822,392.50 | \$847,784.27 | \$3,900,823.29 |
| San Diego | \$4,162,388.30 | \$3,556,601.35 | \$3,723,125.34 | \$3,980,638.85 | \$4,126,890.74 | \$19,549,644.58 |
| San Marcos | \$234,255.96 | \$249,386.82 | \$244,916.65 | \$262,712.66 | \$271,081.61 | \$1,262,353.70 |
| Santee | \$120,159.11 | \$139,999.55 | \$138,985.66 | \$148,550.29 | \$150,712.60 | \$698,407.21 |
| Solana Beach | \$38,474.16 | \$52,426.04 | \$59,031.39 | \$58,654.80 | \$50,992.16 | \$259,578.54 |
| Vista | \$280,959.42 | \$364,128.55 | \$376,681.19 | \$402,978.91 | \$413,305.40 | \$1,838,053.47 |
| Unincorporated | \$1,485,274 | \$1,835,181 | \$1,812,989 | \$1,955,099 | \$1,977,506 | \$9,066,050.01 |
| Airport Authority | * | * | * | * | * | \$0.00 |
| Port District | * | * | * | * | * | \$0.00 |
| Program Totals | \$11,169,054.45 | \$13,106,460.68 | \$13,182,989.32 | \$14,151,165.24 | \$14,602,620.61 | \$66,212,290.30 |

* -Co-Permittee Not Participating in Test Claim